

PROMOTIONS AND APPOINTMENTS IN THE NAVY

Benjamin Dutton, jr., to be captain.
 Halford R. Greenlee to be captain.
 Reed M. Fawell to be captain.
 Henry T. Settle to be commander.
 Augustine H. Gray to be commander.
 Ward P. Davis to be lieutenant commander.
 Edward H. Jones to be lieutenant commander.
 Harold F. Pullen to be lieutenant.
 Bradford Bartlett to be lieutenant.
 Ellwood E. Burgess to be lieutenant.
 Donald R. Eldridge to be lieutenant.
 Earl V. Sherman to be lieutenant.
 Edmonston E. Coil to be lieutenant.
 Edward R. Gardner to be lieutenant.
 John Connor to be lieutenant.
 George F. Watson to be lieutenant.
 Austin S. Keeth to be lieutenant.
 Gus R. Berner, jr., to be lieutenant.
 Waldo Tullsen to be lieutenant (junior grade).
 Henry T. Brian to be lieutenant (junior grade).
 Frederick P. Williams to be lieutenant (junior grade).
 Thomas J. Kimes to be lieutenant (junior grade).
 Ernest J. Davis to be lieutenant (junior grade).
 John H. Lewis to be lieutenant (junior grade).
 Lewis M. Markham, jr., to be lieutenant (junior grade).
 Winthrop E. Terry to be lieutenant (junior grade).
 John C. Hammock to be lieutenant (junior grade).
 Robert M. Kennedy to be medical director.
 Marson W. Mangold to be dental surgeon.
 Murray W. Clark to be assistant paymaster.
 Herbert C. Borne to be chief pay clerk.
 Claude W. Hamilton to be chief pay clerk.
 Thomas W. Shea to be chief pay clerk.

SENATE

THURSDAY, May 9, 1929

(Legislative day of Tuesday, May 7, 1929)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

Mr. McNARY. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Allen	Frazier	La Follette	Simmons
Ashurst	George	McKellar	Smoot
Barkley	Gillett	McMaster	Steck
Bingham	Glass	McNary	Stelwer
Black	Glenn	Metcalf	Stephens
Blaine	Goff	Moses	Swanson
Blease	Goldsborough	Norbeck	Thomas, Idaho
Borah	Gould	Norris	Thomas, Okla.
Brookhart	Greene	Nye	Townsend
Broussard	Hale	Oddie	Trammell
Burton	Harris	Overman	Tydings
Capper	Harrison	Patterson	Tyson
Caraway	Hastings	Phipps	Vandenberg
Connally	Hatfield	Pine	Wagner
Copeland	Hawes	Pittman	Walcott
Couzens	Hayden	Ransdell	Walsh, Mass.
Cutting	Hebert	Reed	Walsh, Mont.
Dale	Heflin	Robinson, Ark.	Warren
Deneen	Howell	Robinson, Ind.	Waterman
Dill	Johnson	Sackett	Watson
Edge	Kean	Schall	Wheeler
Fess	Keyes	Sheppard	
Fletcher	King	Shortridge	

Mr. DILL. I desire to announce that my colleague [Mr. JONES] is absent by reason of illness.

The VICE PRESIDENT. Ninety Senators have answered to their names. A quorum is present.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a memorial of sundry citizens of Braintree and Randolph, Vt., remonstrating against the adoption of any calendar change affecting the continuity of the weekly cycle, which was referred to the Committee on Foreign Relations.

He also laid before the Senate a resolution adopted by the Pacific Coast Shoe Travelers' Association, favoring a reduction of 50 per cent in the Federal tax on earned incomes, which was referred to the Committee on Finance.

He also laid before the Senate resolutions adopted by the board of trustees Nebraska Farm Bureau Federation, opposing the imposition of tariff duties upon manufactured lumber products or logs, which were referred to the Committee on Finance.

He also laid before the Senate resolutions adopted by the Federal Bar Association, favoring the granting of increased

annuities to retired civil-service employees and also a reasonable pay increase to Federal employees by the device of restoring a salary step in the civil-service grades, etc., which were referred to the Committee on Civil Service.

He also laid before the Senate resolutions adopted by sundry citizens of Chicago, Cook County, and the State of Illinois, who served in the armed forces of the United States during the World War, favoring the prompt making of appropriations to provide ample hospital facilities, medical care, and treatment for incapacitated ex-service men and women, which were referred to the Committee on Finance.

He also laid before the Senate resolutions adopted at a mass meeting (comprising approximately 3,000 people and representing about 100 different societies with a membership of 200,000) at Orchestra Hall, Chicago, Ill., favoring the repeal of the national-origins clause of the existing immigration law and a return to the previous immigration policy based on the census of 1890, etc., which were referred to the Committee on Immigration.

He also laid before the Senate a joint resolution of the Legislature of the State of Wisconsin, memorializing Congress to enact legislation continuing the Federal appropriations for maternity and infancy welfare, which was referred to the Committee on Education and Labor. (See joint memorial printed in full when presented May 6, 1929, by Mr. LA FOLLETTE, page 869, CONGRESSIONAL RECORD.)

He also laid before the Senate the following joint memorial of the Legislature of the Territory of Alaska, which was referred to the Committee on Post Offices and Post Roads:

House Joint Memorial 6 (by Mr. McDonald)

LEGISLATURE OF THE TERRITORY OF ALASKA,
NINTH SESSION.

To the Senate and House of Representatives of the United States of America in Congress assembled:

Your memorialist, the Legislative Assembly of the Territory of Alaska, respectfully represents—

That the construction and existence of a highway for automobile travel between Seattle, Wash., and Fairbanks, Alaska, passing through British Columbia and Yukon territory, would be of great benefit to both the United States and Canada, and your memorialist prays that appropriate steps be taken by the Government of the United States looking to the appointment of a commission or other representatives by the Canadian Government to confer with the Board of Road Commissioners for Alaska (War Department) on the subject of the said proposed international road and plans for its construction.

That Alaska, with an area of approximately one-fifth that of the continental United States, awaits further development. The means of transportation in the Territory are still inadequate, although its coasts are visited by ocean-going ships, its interior is penetrated for a distance by railroads, and its rivers in their circuitous courses afford access to an additional portion of its vast domain.

Stretching from Alaska's eastern boundary to the northern boundary of the United States are the Yukon territory and British Columbia, also largely undeveloped for a major portion of their enormous extent. The overland distance from Fairbanks, the geographic center of Alaska, to Seattle via the Yukon territory and British Columbia, is approximately 1,800 miles. Along this distance 900 miles of automobile roads have been constructed, and there are 200 miles of wagon road which can easily be brought up to the standard of an automobile highway. The distance of 700 miles remaining presents no serious construction difficulties; it is estimated that a gravel-surfaced road 16 feet wide can be built for \$7,000,000. A highway for automobile travel extending from Seattle to Fairbanks through the great frontiers of Canada and the United States will furnish both these countries with additional means for exploring their great undeveloped mineral wealth; it will provide an opportunity for hundreds of thousands to satisfy their ambition for auto travel through one of nature's most scenic wonderlands; it will bring prosperity to British Columbia, the Yukon territory, and Alaska, and at the same time will bring rich returns to both Canada and the United States for their investment; it will be the line of travel over which, by airplane, a new and valuable commerce with Asia may be established and maintained.

And your memorialist will ever pray.

Passed by the house of representatives April 12, 1929.

R. C. ROTHENBURG,
Speaker of the House.

Attest:

ROBERT C. HURLEY,
Clerk of the House.

Passed by the senate April 17, 1929.

WILL A. STEEL,
President of the Senate.

Attest:

CASH COLE,
Secretary of the Senate.

The VICE PRESIDENT also laid before the Senate the following joint resolution of the Legislature of the State of Minnesota, which was referred to the Committee on Irrigation and Reclamation:

Resolution 17, being S. F. 1227

Joint resolution memorializing Congress for the adoption of a pending measure for the relief of landowners burdened by drainage assessments

Whereas under present agricultural conditions the demand upon landowners for the payment of interest and installments of principal upon drainage assessments aggravates existing financial depression in agricultural areas, and a bill now pending in Congress, House file 14116, Senate file 4689, contemplates the creation of a revolving fund from which the Secretary of the Interior is authorized to loan to counties and other drainage districts the amount of their outstanding bonds, to be repaid at the end of 40 years without interest, thereby relieving landowners of the burden of present payment of these obligations:

Resolved, That the Legislature of the State of Minnesota hereby urges upon the Congress of the United States the early passage of this pending measure as a measure of needed relief from existing agricultural depression.

W. I. NOLAN,
President of the Senate.
JOHN A. JOHNSON,

Speaker of the House of Representatives.

Passed the senate the 17th day of April, 1929.

G. H. SPAETH,
Secretary of the Senate.

Passed the house of representatives the 18th day of April, 1929.

JOHN I. LEVIN,
Chief Clerk House of Representatives.

Approved April 20, 1929.

THEODORE CHRISTIANSON,
Governor of the State of Minnesota.

Filed April 22, 1929.

MIKE HOLM,
Secretary of State.

The VICE PRESIDENT also laid before the Senate the following joint resolution of the Legislature of the State of Minnesota, which was referred to the Committee on Immigration:

Resolution 18—H. F. 1201

Joint resolution memorializing the Congress of the United States to repeal the national-origins clause of the immigration act of 1924

Whereas the immigration act of 1924, by the provisions of the national-origins clause therein contained, fixes the quotas of immigrants from foreign countries in an unsatisfactory manner, in that—

(1) It is impractical because the intermixture of racial stocks in the United States since the year 1790 leaves the national origins of the present population in inextricable confusion and makes impossible a proper distribution and valuation of those origins;

(2) It treats unfairly certain nations in the north of Europe whose nationals played an important part in the development of the great Northwest, which section is still largely inhabited by them and their descendants;

(3) It unfairly increases the quotas from certain other European countries whose nationals have immigrated to the United States much more recently and are believed to be less adaptable to the climatic, economic, and social conditions of this country; and

Whereas immigration quotas apportioned according to the nationality of the foreign born in the United States in the year 1890 would be fair to all nations and its consequences most beneficial to the interests of our own country: Therefore be it

Resolved by the house of representatives (the senate concurring), That the Congress of the United States, at its impending special session, be, and it hereby is, urgently requested to repeal the national-origins clause of the immigration act of 1924, and substitute therefor an apportionment of immigration quotas on the basis of foreign-born population in the year 1890; be it further

Resolved, That a certified copy of this resolution be transmitted to the President of the United States, the Vice President of the United States, to the Speaker of the House of Representatives of the Congress of the United States, and to each Representative in Congress from the State of Minnesota.

JOHN A. JOHNSON,
Speaker of the House of Representatives.
W. I. NOLAN,
President of the Senate.

Passed the house of representatives the 22d day of April, 1929.

JOHN I. LEVIN,
Chief Clerk of the House of Representatives.

Passed the senate the 22d day of April, 1929.

G. H. SPAETH,
Secretary of the Senate.

Approved, April 23, 1929.

THEODORE CHRISTIANSON, Governor.

Filed April 23, 1929.

MIKE HOLM, Secretary of State.

I, Mike Holm, secretary of state of the State of Minnesota, do hereby certify that I have compared the annexed copy with record of the original resolution in my office of H. F. No. 1201, being Resolution 18, laws 1929, and that said copy is a true and correct transcript of said resolution and of the whole thereof.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State at the capitol, in St. Paul, this 24th day of April, A. D. 1929.

[SEAL.]

MIKE HOLM, Secretary of State.

Mr. GOFF presented the following telegram, which was ordered to lie on the table and to be printed in the RECORD:

CLARKSBURG, W. VA., May 9, 1929.

Senator GUY D. GOFF,
Washington, D. C.:

We urge you to use every influence in securing reinstatement of fruits and vegetables in the farm relief bill so that they will receive full benefits of every provision therein.

THOMAS R. BENNETT,
Executive Secretary West Virginia Farm Bureau.

Mr. HATFIELD presented the following telegram, which was ordered to lie on the table and to be printed in the RECORD:

MARTINSBURG, W. VA., May 9, 1929.

Senator H. D. HATFIELD:

We strenuously object discrimination against fruit and vegetable producers and respectfully request reinstatement fruit and vegetable to secure full benefit all provisions farm relief bill.

GOLD FRUIT ASSOCIATION,
W. A. GOLD, President.
Mason City, W. Va.

REPORT OF THE FINANCE COMMITTEE

Mr. SMOOT, from the Committee on Finance, to which was referred the bill (S. 310) to amend section 5 of the second Liberty bond act, as amended, reported it without amendment and submitted a report (No. 9) thereon.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. STEPHENS:

A bill (S. 1015) to amend the act entitled "An act conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claims which the Choctaw and Chickasaw Indians may have against the United States, and for other purposes," approved June 7, 1924;

A bill (S. 1016) for the relief of Charles B. Cameron, Frank K. Ethridge, and Hardy R. Stone;

A bill (S. 1017) for the relief of J. A. Teat, F. E. Leach, and J. L. McMillan; and

A bill (S. 1018) for the relief of Charles J. Ferris, major, United States Army, retired; to the Committee on Claims.

By Mr. GREENE:

A bill (S. 1019) for the extension and completion of the United States Capitol; to the Committee on Public Buildings and Grounds.

By Mr. GOFF:

A bill (S. 1021) to extend benefits under the World War veterans' act, 1924, as amended, to the dependents of the late Leonidas B. Linger; to the Committee on Finance.

A bill (S. 1022) granting an increase of pension to William C. Milliner (with accompanying papers);

A bill (S. 1023) granting an increase of pension to Nancy H. Cunningham;

A bill (S. 1024) granting a pension to Charles D. Booth;

A bill (S. 1025) granting a pension to Walter Fallen;

A bill (S. 1026) granting an increase of pension to Elizabeth Thomas; and

A bill (S. 1027) granting a pension to Belle Brown; to the Committee on Pensions.

By Mr. SHORTRIDGE:

A bill (S. 1028) authorizing the award of campaign insignia to war correspondents and war artists;

A bill (S. 1029) to readjust the pay of certain warrant officers and retired enlisted men;

A bill (S. 1030) for the relief of Edwin Black;

A bill (S. 1031) for the relief of Robert E. Blair;

A bill (S. 1032) for the relief of Frank Christ; and

A bill (S. 1033) for the relief of George H. Clayberger; to the Committee on Military Affairs.

By Mr. DENEEN:

A bill (S. 1034) to provide for a survey of a route for the construction of a highway connecting certain places associated with the life of Abraham Lincoln; to the Committee on Agriculture and Forestry.

A bill (S. 1035) to exempt from taxation certain property of the National Society of the Sons of the American Revolution in Washington, D. C.; to the Committee on the District of Columbia.

A bill (S. 1036) to extend the times for commencing and completing the construction of a bridge across the Ohio River at or near Shawneetown, Gallatin County, Ill., and a point opposite thereto in Union County, Ky.; to the Committee on Commerce.

A bill (S. 1037) granting an increase of pension to Ellen McFarland; to the Committee on Pensions.

A bill (S. 1038) for the relief of James M. Winston; to the Committee on Military Affairs.

A bill (S. 1039) for the relief of C. L. Beardsley;

A bill (S. 1040) for the relief of Mildred Lane;

A bill (S. 1041) for the relief of John Brown; and

A bill (S. 1042) for the relief of Mary Altieri; to the Committee on Claims.

By Mr. WHEELER:

A bill (S. 1043) granting an increase of pension to Joseph C. Petres; and

A bill (S. 1044) granting an increase of pension to James Snowden; to the Committee on Pensions.

By Mr. PHIPPS:

A bill (S. 1045) for the relief of Sheldon R. Purdy; to the Committee on Post Offices and Post Roads.

By Mr. HALE:

A bill (S. 1046) for the relief of the State of Maine and the city of Portsmouth, N. H.; to the Committee on Naval Affairs.

By Mr. CAPPER:

A bill (S. 1047) for the relief of Rosa E. Plummer; to the Committee on Claims.

By Mr. STEPHENS:

A joint resolution (S. J. Res. 35) consenting that certain States may sue the United States, and providing for trial on the merits in any suit brought hereunder by a State to recover direct taxes alleged to have been illegally collected by the United States during the years 1866, 1867, 1868, and vesting the right in each State to sue in its own name; to the Committee on Claims.

COMPENSATION FOR UNITED STATES EMPLOYEES

Mr. BLAINE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from the further consideration of the bill (S. 622) to amend an act entitled "An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," as amended. I make this request for the purpose of having the bill indefinitely postponed and substituting another bill in its stead.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered. Senate bill 622 will be indefinitely postponed.

Mr. BLAINE. I introduce another bill in its place.

The bill (S. 1020) to amend an act entitled "An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," approved September 7, 1916, as amended, was read twice by its title and referred to the Committee on the Judiciary.

CHANGES OF REFERENCE

On motion of Mr. NYE, the Committee on Public Lands and Surveys was discharged from the further consideration of the bill (S. 53) to create a national military park at and in the vicinity of Kennesaw Mountain, in the State of Georgia, and for other purposes, and it was referred to the Committee on Military Affairs.

Also, on motion of Mr. NYE, the Committee on Public Lands and Surveys was discharged from the further consideration of the bill (S. 63) to amend section 13, chapter 431, of an act approved June 25, 1910 (36 Stat. L. 855), so as to authorize the Secretary of the Interior to issue trust and final patents on lands withdrawn or classified as power or reservoir sites, with a reservation of the right of the United States or its permittees to enter upon and use any part of such land for reservoir or power-site purposes, and it was referred to the Committee on Indian Affairs.

AMENDMENTS TO FARM RELIEF BILL

Mr. HAYDEN and Mr. WATERMAN each submitted an amendment and Mr. SHORTRIDGE submitted three amendments intended to be proposed by them, respectively, to Senate bill 1, the farm relief bill, which were severally ordered to lie on the table and to be printed.

"POINTS OF HISTORICAL INTEREST IN THE NATIONAL CAPITAL"
(S. DOC. NO. 10)

Mr. VANDENBERG. Mr. President, last week the Senate adopted a report from the Committee on Printing covering the

reprint of a pamphlet entitled "Points of Historical Interest in the National Capital." Since the order was made two or three historical corrections have been found to be necessary in the text. It is deemed advisable that those corrections should be made before the reprint occurred. This requires renewed action by the Senate. I therefore present the following resolution and ask unanimous consent for its immediate consideration.

The VICE PRESIDENT. Is there objection?

There being no objection, the resolution (S. Res. 57) was read, considered, and agreed to, as follows:

Resolved, That the action of the Senate on April 30, 1929, in agreeing to the resolution (S. Res. 45) to print additional copies of the publication entitled "Points of Historical Interest in the National Capital" be rescinded, and that said publication be printed, with corrections and additions, as a Senate document of the Seventy-first Congress, with illustrations, and that 5,000 additional copies be printed for the use of the Senate document room.

POLITICAL SITUATION IN THE SOUTH

Mr. BLEASE. Mr. President, I ask unanimous consent to have printed in the RECORD certain newspaper clippings with reference to the political situation in the South.

The VICE PRESIDENT. Without objection, it is so ordered. The clippings are as follows:

[From the Crisis, May, 1929]

HOOVER AND THE SOUTH

Herbert Hoover has started something. We very much doubt if he understands the ramifications of his late declaration. His statement is that Republican Presidents for many years have tried to build up State Republican organizations in the Southern States; that this southern Republican Party must "commend itself to the citizens of those States"; that the basis of sound government is a strong 2-party representation; that there must be no sectionalism in politics; and that the reorganization must come "from the States themselves."

He then lists the States: North Carolina and Virginia have a Republican Party. Alabama, Arkansas, Louisiana, Texas, and Florida are strengthening the Republican Party, and Mr. Hoover commends the movement. He puts Mississippi, South Carolina, Georgia, and Florida on the black list and says nothing about Tennessee.

All this is singularly contradictory. By law, social and economic pressure, the formation of a real Republican Party has been resisted by the solid South for a generation.

The only movement which they have been willing to admit has been the forming of a white Republican Party, and it is this "Lily-white" movement which is triumphing in every one of the States which Mr. Hoover praises. Negroes have kept their hold in Mississippi, Georgia, and Tennessee. And two of these States Mr. Hoover roundly condemns.

Very good. Does President Hoover include black citizens among those whose judgment must "command" the reorganization? If the Perry Howard and Ben Davis type of political morality does not suit him, does he not know a single decent negro citizen in Georgia and Mississippi who can be trusted? And when reorganization must come from the States themselves, does his dominating local opinion include poor black laborers or only rich white bankers?

As a practical measure, suppose a Republican Party under white leadership and control grows up in the Southern States? On whom must it depend for votes? Manifestly on negroes.

Why should negroes vote for "Lily-whites" in preference to voting for Bourbon Democrats? They must be offered something; offices, better schools, better living conditions, abolition of "Jim Crow" cars. Something! If the Democrats and "Lily-whites" compete for the negro vote, then only patience and brains are needed to bring negro office holders and negro suffrage. If neither party offers anything, the new Republican Party can never exist, because it will be without votes. Even if its Federal patronage attracts any considerable body of voters from the white Democratic Party, the white Democrats can retaliate by inviting the negro voters, which is precisely what happened in Tennessee. In this case the Republicans, in self-defense, have got to submit at least to a partial leadership, and Robert R. Church, of Tennessee, maintains his position with the benediction of the President.

G. O. P. NEGROES IN PARTY REVOLT

Charles Michelson in New York World

WASHINGTON, April 21.—Negroes are engaging in a real insurrection against the Republican Party.

Every Member of Congress has received a broadside compiled from editorials of newspapers arraigning President Hoover for his declaration of policy in the South, which they interpret as a siding with the "Lily-whites" to eliminate negro citizens from sharing control of the party.

The collection of articles is issued by the Memphis Triangle. It reached the Congressmen in envelopes bearing the name of Robert R. Church, millionaire negro and political power in Tennessee.

The headlines of the articles are an index to their character:

"Herbert the Innocent," from the Jackson (Miss.) Daily News; "The People Elect Presidents to Run the Country Not to Build Political Parties," from the Atlanta Independent; "The Suggestion of an Infamous Deal" from the Memphis Commercial Appeal; "The Republican Party South," from the Chicago Tribune.

CITES DE PRIEST AND HOWARD

The advent of OSCAR DE PRIEST in Congress from Chicago, and the alleged effort of the administration to convict former Attorney General Perry Howard of trafficking in public jobs because he would not resign as Republican committeeman from Mississippi are cited in the extraordinary outburst of propaganda. The negroes appear to have learned something from the Anti-Saloon League, for the broadside resembles the Methodist Board of Temperance weekly clip sheet, which spreads the doctrine of prohibition.

The Triangle outburst has the preference under the caption, "President Hoover Stirs a Hornet Nest."

"From the President has come an open statement setting forth his plans in dealing with the Republican Party south of the Ohio. Many believe it to be a death knell to the negro in politics.

"Whatever may be Mr. Hoover's intention, the fact remains that his efforts will invite powerful opposition, both North and South, as the editorials reprinted on this page will indicate."

"WON'T STAND FOR IT"

"The South will not stand for the establishment of a Republican Party within its doors headed by white men, and the regular Republicans North will not stand for the ousting of its faithful negro element, upon which it has always safely depended.

"In catering to lily-white carpetbaggers in the South the President stirs a hornet's nest, and the results may be both discouraging and painful."

The negro newspapers generally have taken up the cry.

An editorial in the Washington Tribune hails the advent of DE PRIEST, mentioning incidentally that "his first act of nominating young men for cadets to West Point and Annapolis is self-evident," and commenting that "Congressman DE PRIEST is a part of the Hoover administration and not a beneficiary of it."

This newspaper also mentions that "campaign pledges made to colored voters are not to be redeemed at this session of Congress."

WARNED ON PRECEDENT

The Atlanta Independent warns Mr. Hoover that every President who sought to Republicanize the South by eliminating the negro met with disaster.

"Let Mr. Hoover adopt this unpatriotic aspiration," an editorial runs, "and he will go out of office in 1933 as ingloriously as he went in gloriously in 1929." Referring to the States excepted by the President as requiring a shake-up of their Republican organizations, the Independent asks, "Did the breaking of the solid South atone for the sale of patronage in North Carolina, Texas, Virginia, and Florida?"

The obvious purpose of the propaganda is to scare the President away from his purpose to build up a real Republican Party in the South by ridding that section of its fear of negro domination through stirring up trouble for the party among the black voters of such northern States as Indiana, Illinois, and some others where they hold the balance of power.

This is the first time the race has attempted an organized movement of the sort, and some of the northern Republicans are doubtful of the wisdom of risking their surety in what Mr. Hoover would refer to as the marginal States for the possibility of consolidating the G. O. P. gains below the Ohio River.

HOWARD ON TRIAL TO-MORROW

Former Assistant Attorney General Howard goes on trial in Meridian, Miss., for the second time to-morrow. He was acquitted by a whole jury on the first indictment. The second case was postponed twice against Howard's protest. Part of the story is the allegation Howard was advised that if he would abandon his political place—the national committee having found no way by which he could be ousted from membership in that body—the second charge would not be pressed. The Government attorneys deny this absolutely.

[From the Daily Clarion-Ledger, Jackson, Miss.]

ALL PARTIES ACQUITTED IN PATRONAGE CASE

A "square deal for everybody" is the motto of the people of Mississippi, and that is a good one.

The grand jury in session in Meridian, composed of white men, released Perry Howard, colored, and J. G. Buchanan and G. F. McClelland, white, after considering the testimony for a very short time. In fact, it is understood that the jury was one accord when the trial was finished.

This is the second time that the defendants have been acquitted on the same charges, and this certainly should be the end of the matter.

The effect of this trial should be to convince the people of the North that the negro gets a square deal in Mississippi, and it should impress upon that race the fact that the white man's law is also the black man's

law. That while it gives equal protection to members of both races and of all races, its heavy hand falls with equal force upon all those who violate its mandates.

Ed Patton, a life-long resident of Jackson, had his case thrown out by Judge Holmes, so flimsy was the evidence presented.

This brings to a close these "patronage" cases in Mississippi, cases that have received the attention of both Houses of Congress, both political parties, the Department of Justice in Washington, the courts of Mississippi, and which have given the newspapers of the country column upon column of news.

[From the Commercial Appeal, Memphis, Monday, April 28, 1929]

WHAT TO DO WITH HOWARD?

Some years ago charges of selling Federal offices were made against C. Bascom Slempp, a former Congressman, and at the time Secretary to the President. Although the complaints were almost as numerous as those against both cold and hot-weather complaints, nothing was ever done about it. The latest news is that Slempp is to be taken care of with a good position.

Then came the uprising against brokerage in Federal offices last summer in which Perry Howard, negro Republican boss of Mississippi and an Assistant Attorney General of the United States, was indicted along with several others. Last winter Howard was tried on one of set of charges and was acquitted. A hearing of another set has been concluded with the same result—an acquittal. The prosecutors, however, say there are more charges to be heard.

Howard, of course, has been dissociated temporarily from his Federal position. He is no longer, according to reports, the job dispenser for his State. But he does remain the leader of the dominant element of the Republican Party in Mississippi. If he had been convicted, his removal from job and influence could have been accomplished with ease and grace. But now that he has been acquitted, what shall be done with him? Ruthless handling without a reason therefore might have its evil repercussions politically, not only in Mississippi but also in many of the other States.

[From the Boston (Mass.) Chronicle]

FUMIGATING THE REPUBLICAN PARTY

The political storm clouds which began to gather shortly after the late Warren G. Harding was elected to the Presidency of the United States in 1920, have at last broken, and in the consequent deluge the negro finds himself literally a castaway, drifting in the treacherous sea of Republican lily-whiteism.

In the intervening years since Harding there were many well-meaning, sincere negroes in the Republican Party who could not discern the inevitable drift of their party southward toward the shoals of race prejudice. With remarkable courage and admirable loyalty to the political faith of their fathers, these men and women stanchly stood by the old ship as she rose and fell in the stormy seas of expediency pitilessly lashed on either side by the resistless winds of economic determinism. For them it must have been a moment pregnant with fear and trembling as they read the news emanating from Washington, D. C., last Tuesday.

On that day, President Hoover, the titular head of the Republican Party, in an interview with newspaper men made his final bid for the political affections of Dixie by practically reading out of his party the negro upon whose bed of sorrows and slavery that same party was born and nurtured over three score years ago.

"The Republican Party is the ship and all else the sea" once thundered the immortal Frederick Douglass. To-day that ship, with Captain Hoover at the helm, grimly rides the stormy seas of economic and social change. At her masthead she proudly flaunts a pennant upon which is inscribed in letters bold and bright, "For white only." On her water-soaked deck Quaker and Cracker embrace.

If great souls of yesteryear who helped to fashion the Republican Party to a weapon with which to cut the cordon knot of slavery could but come back to life they would face a spectacle too tragic here with pen to describe. Surely history offers few ironies to equal the present-day attitude of the Republican Party toward the negro.

Within recent years, if there was any one outstanding point which distinguished the Republican from the Democratic Party, it was the more cleverly veiled and slightly less hostile attitude which the G. O. P. showed toward the political prerogatives of the negro. Now, even that alleged difference has been leveled and both parties will henceforth vie with each other for political preference in the South, while the negro "remains in his place." But will he?

Truly, white America does not know the negro. The popular conception of the negro is an American of African descent, whose forebears 300 years ago were kidnapped on the shores of Africa and brought into the Western World as slaves, and who through the changing centuries has remained just a slave with a child's mind. If you ask the average American about the negro to-day you will hear a tale which takes you back to plantation days.

[From the Atlanta Independent, April 27]

JUDGE COBB, DOCTORS SCOTT AND HAWKINS, EDITORS VANN, ANDREWS, HARRIS, HOLSEY, AND BARNETT COME TO JUDGMENT

Oh, where are our tribunes in the hour of violent peril, when our constitutional rights are being invaded and we denied a voice in the house of our fathers? Oh, where is Doctor Hawkins, who announced himself the champion of his people and guaranteed Herbert Hoover on the square with all men?

Are Hawkins, Scott, Harris, Holsey, et al., going to sit idly by and give consent unto the political death silence? Will they not raise their voices in righteous appeal against the effort to hush their voices in party councils? Won't these men see the President, whom they helped to elect, and implore him not to exchange loyal Republicans for Lily-whites and clansmen—remind him of his preelection pledge to be fair to all men?

The President heard them before election—won't he hear them now? Did your interest in the race end with the election? If not, won't you come to judgment and speak for your people? Are you hopeful of a job and afraid your voice will lessen your chances? Do you place a job for yourself above the rights of your people? Why don't you demand that the Lily-white propaganda be repudiated by the administration? Why don't you demand that proscription, caste, and discrimination within the party cease or you will hold the party to a strict accountability at the polls in 1930-1932.

Let's insist with uncompromising zeal that race equality precedes party expediency and human rights paramount race, color, or faith.

If Cobb, Scott, Hawkins, Holsey et al., served the party for the race, let them come into court and ask a hearing for their constituents. But if they served for personal gain of any character the people expect no relief at their hands. If they had any influence in the Bar Building before the election, they ought to have some at the White House now, or know the reason why.

Where is Roscoe Conkling Simmons, the race's greatest orator? Ask that his people be heard? Will he not protest against the lynching of his people in the house of their friends?

The lamented Matthews protested and presented his fourteen points with all the determination of a Woodrow Wilson, to President Harding. Bob Church is fighting our battle almost single handed and alone, but where are Cobb, Scott, Holsey, and Hawkins? The Republicans these champions help put in power are stealing the manhood rights of the race far more sneakily than the Democrats ever disfranchised them, while our tribunes, like Nero, fiddled while Rome burns down.

Will you let Horace Mann overshadow all of you? Whether you are entitled to it or not you are getting credit for a good job, and why not follow it up with a telling leadership? You could at least arrange a conference of race men in Washington to talk over the situation with the President before his administration defeats the party in 1932. You could tell the Lily-whites, Ku-Kluxes, and race haters that the party was built on principles and not color. You could say to the administration that unless this Lily-white propaganda is called off our people will vote the Democratic ticket in 1930-1932 as a rebuke to the Republican Party for party perfidy, deception, and broken promises.

We have come to the parting of the ways, the negro will have justice and equal opportunities or he'll go to the Democrats as a matter of revenge. We'll do to the Republican Party what the Democrats did to Al Smith in 1928, beat hell out of them and wreck the party.

This is no day for felicitating the President about his wonderful achievement, but the hour of testing the pudding by chewing the bag, to shoot Luke, or put up the bag.

Hawkins, Scott, Simmons, Cobb, Holsey et al., come to judgment and take up the cudgel for your kith and kin or prove recreant to the duties and responsibilities imposed upon you in the last campaign. Quit saying, "Yes, sir," "colonel," or "general," and say, in tones that will be heard throughout America, "The price of our loyalty to the Republican Party is the full enjoyment of every right—political or economical—that any other citizen enjoys and is protected in."

[From the Memphis Triangle, Saturday, May 4, 1929]

HOOPER PASSES FOR MAN, BUT GOOD LORD, WHO SAID REPUBLICAN?

As soon as Herbert Hoover got to the White House he looked for the exit. If he misses the way we mean to help him find it. We strive to please.

In excepting Tennessee from the States in which Hoover the politician plans assault upon the record and principles of the Republican Party, Hoover the man opens the way for plain advice from this Commonwealth. We hasten our views lest he should think the compliment not well taken.

We speak as Republican to one who claimed that title late in life.

To Mr. Hoover's subterfuge as to a "2-party system" in the South the mightiest of all newspapers, the Chicago Tribune, Republican gospel, replies for all in these few kind words:

"The upbuilding of a strong 2-party system in the South should not come until the South enfranchises the negro or takes the constitutional penalty of reduction of representation in Congress for failure to do so. Furthermore there must be evidence that the negro is to be given

justice in the courts. The Republican Party must not compromise with the nullificationists. It can not repudiate its origins."

The "origins" of the Republican Party had no place in the engineering course at Leland Stanford. Mr. Hoover and Walter Brown held in sweet and mutual agreement that the origin of the G. O. P. might be discovered and staked off if the size of the campaign fund offered no resistance to the venture. The fund proved to be sufficient.

Ohio boasts in Walter the Lily-white sharpshooter whose habitual pinchbeck belies his profession. Ohio colored Republicans itch for Walter's return to Toledo. They are not as sharp as Walter but they can shoot.

Mr. Hoover asks Northern States to bear up and likewise bear him up while he skins alive negro Republicans in Dixie. More than a million negro Republicans in the North will soon advise their national committeemen, their Senators, and Congressmen that if they can look on in silence and agreement as Hoover does his skinning, maybe more than a million negro Republicans can look on as northern Democrats show the world what skinning really is. Even worms will turn.

Mr. Hoover says Tennessee is a Republican State. The title hardly holds water, but whenever Tennessee does come over on the Lord's side, as in 1920 and 1928, the old backslider is lifted up to grace by 100,000 negro Republicans.

Negro Republicans in Tennessee don't help J. WILL TAYLOR, apostle of the true doctrine, to do his stuff for the purpose of aiding Hoover to do his kind of stuff against their brethren in Georgia, South Carolina, and Mississippi.

If Brown, of Ohio, NEWTON, of Minnesota, and Burke, of Pittsburgh, think so, let them watch the election returns in 1930, and particularly in 1932. The White House itself may tune in if its occupant is not busy with the medicine ball.

Georgia, South Carolina, and Mississippi are read out of the Republican organization, not because they are not sound in the origins of the G. O. P., but only because as no honest man will dispute in a parliament of ordinary intelligence those States have lodged leadership of the party in gentlemen who, though deeply native, were born to a color displeasing to Hoover and his strange and daring crew, particularly to Brown, who is so afraid of being taken for an Indian or a Jap that each morning he announces from the post-office steps, "I am still white."

Tennessee rejects the flattery so sweetly thrown by Hoover. It sides with the faithful leaders of the disgraced and distressed States, lines up against this fraud with a White House label, and henceforward will move against Hoover and his works.

As in Tennessee so will it be in every State where the ballot box still executes the freeman's will—in Ohio, Indiana, Missouri, in California, Illinois, New Jersey, all through the East, and everywhere, even we think, in Kentucky, where the wool begins to drop from long-closed eyes.

Mr. Hoover, pursuing Perry W. Howard, whose escape thus far is due to his neighbors, dressed himself in woman's clothes and employed a woman's voice. But we know Miss Mabel wore no such shoe as made tracks in Mississippi. Feet take on size when in constant use as quick and hurried changes are made from path to path in the journey to the White House.

Mr. Hoover may be this man of courage, but his statement issued against Howard only 12 days before that persecuted man came up with his cross proved that Hoover knows how cowards play the part of indirection.

At Kansas City Miss Mabel, sitting in a chair usually occupied by a chairman, put Howard on the rolls of the Republican National Convention. She seated his entire delegation. Hoover took his vote and the votes of his comrades.

At Jackson and Meridian Hoover and Miss Mabel directed a Government prosecutor to take Howard's life, and requested a Federal judge to bury him in a felon's grave. Mississippi Democrats had to show Hoover how real white men act white.

By repudiating Howard, regularly elected leader of the Republicans of Mississippi, Hoover sought to convict him even before he reached the courthouse. Miss Mabel and Walter knew the influence of a presidential "paper."

If Hoover is a Republican, we say if he is, it is the convenience of honors that attracts his vulgar allegiance and not either knowledge of right or love of principle.

When the Republican Party becomes a Hooverwhite party in the South, as Hoover seems to wish, the Democratic Party will become less white in the North, as Brown and Newton do not wish.

Hoover demands the Republican organization to read the southern negro out of his party because the Democratic Party has legislated him out of his government. Negroes in the free States, many of them having left their homes seeking the liberty of expression, will proceed to answer Mr. Hoover. If they can, they will drive him out of the White House, the habitation of just and honorable men, and his brutal crowd out of control of their party.

We war not against the Republican Party, but against hypocrisy, fraud, against the unprincipled designs of the double-barreled light-fingered pirates now in control of our party. We war against all who

seek the repudiation and desertion of the principles by which our party has thus far advanced and upon which it has continued in almost unbroken sway since 1860.

Mr. Hoover likes to be called a great engineer. He may now try tunneling Tennessee, and in retaliation drive us from the ballot box. But he knows Tennessee about as well as he knows the origin of the Republican Party. However, he might direct Miss Mabel to put a Mississippi Tyler at the door of a Tennessee grand jury and instruct it to find a true bill disfranchising 600,000 of us.

Miss Mabel was a great lawyer at Kansas City, or had it said of her, until Judge HASTINGS, now Senator from Delaware, took the floor and disclosed her as only passable to look at but a misshapen old lady as lawknower or lawgiver.

The war is on, and we war for the self-respect of an outraged loyalty. Recognize our banner by these words: The Republican Party, as with our Christian faith, the same yesterday, to-day, and forever, everywhere, in South Carolina, Georgia, and Mississippi, as in Tennessee, Ohio, and Illinois.

Hoover is a one-lung Republican and a one-term resident of the White House. As a President, he passes for a man, but, good Lord, who said Republican!

INVESTIGATION OF SINKING OF STEAMSHIP "VESTRIS"

Mr. FLETCHER. Mr. President, I ask unanimous consent to have printed in the RECORD an article from the New York Times of May 4, 1929, entitled "Told to Falsify Log, *Vestris* Man Admits," and so forth.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 4, 1929]

TOLD TO FALSIFY LOG, "VESTRIS" MAN ADMITS—CHIEF OFFICER CHARGES CAPTAIN URGED "CAREFUL" ENTRY ON OVERDRAFT OF LINER—CONCEALED EVIDENCE HERE—"MY GOD! I AM NOT TO BLAME FOR THIS," CAREY CRIED BEFORE DEATH, ANOTHER TELLS

(Special cable to the New York Times)

LONDON, May 3.—Frank William Johnson, senior surviving officer of the *Vestris*, admitted to-day at the board of trade inquiry into the disaster which cost 110 lives last November that he could no longer be "loyal" to his company, Lamport & Holt (Ltd.), owners of the *Vestris*. Johnson said he knew that the fact that the *Vestris* had sailed below her marks was going to cause a lot of trouble and first mentioned the matter to Third Officer Welland when rescued by the steamer *American Shipper* and to Captain Heasley at the Hotel Holly in New York.

"We were talking continually on the *American Shipper* about the *Vestris*'s draft," said Mr. Johnson. "We did not want the American people to get hold of this overloading business and were trying to conceal it. That was our intention from the beginning. We wanted to get home. We did not want to be in those courts all the time in America. Welland had a conversation with the master of the *American Shipper*, who said, 'I don't want to hear anything about the disaster; but be loyal to your company.' Well, we tried to be loyal; that was all."

UNABLE TO MAINTAIN LOYALTY

Butler Aspinwall, chairman of the court, asked, "You are still anxious to be loyal to your company?"

Mr. Johnson replied:

"Well, I can not."

Mr. Johnson added that he thought overloading was one of the causes of the disaster. He could not recall any other definite occasion when Lamport & Holt ships had left below their marks. There was no pumping out of water from the *Vestris* as the ship proceeded down the Hudson River from Hoboken, he said.

G. P. Langton, counsel for the owners, questioned Mr. Johnson about what he described as "the puzzle of this case."

"I gather," Mr. Langton said, "that both you and Captain Carey, the master of the *Vestris*, were puzzled as to why the vessel was heeling over even though Captain Carey had ordered the tanks to be pumped out and the engineer was saying he was keeping the water down?"

Mr. Johnson's reply was:

"Yes; the vessel was rolling to its end."

Mr. Langton then put several questions regarding the allegation that Captain Heasley, assistant superintendent of the Lamport & Holt Co. in New York, had destroyed documents relating to the *Vestris*, and suggested this was "mere gossip."

Mr. Johnson denied having "constructed the charge to blacken Heasley's character," but admitted he did not know of anything on which the charge could be based apart from what he heard in conversations.

Mr. Langton then asked Mr. Johnson whether he had made any protest when Chief Officer Anderson, of the *Vestris*, had told him to be careful what he put in the log book about the ship's draft. Mr. Johnson said he did not know.

"Did you know," asked Mr. Langton, "that what he meant for you to do was a criminal offense?"

Mr. Johnson answered, "No."

"Do you suggest that you were ready to commit a criminal offense without a protest?" Mr. Langton continued.

Mr. Johnson replied, "Yes," and added that Captain Carey, the drowned master, had told him to be careful what he put in the log, and that he had replied that Chief Anderson had spoken to him about it.

FIRM IN CHARGE AGAINST CAREY

"You are seriously suggesting that Captain Carey meant you to put a false draft in the official log?" Mr. Langton asked. Mr. Johnson answered, "Yes," and later added, "I don't like saying these things," but adhered to his view that he had not mistaken the meaning of Captain Carey's words.

Mr. Aspinwall opposed the application of Mr. Webb, of the New York stevedore company of Hogan & Sons for permission to return to the United States, saying Mr. Webb seemed to take the responsibility for the disposition of the cargo with certain limitations.

"Some of my colleagues," said Mr. Aspinwall, "take a serious view regarding the position in which heavy weights were placed in the *Vestris*. The matter has not been sifted as it ought to be in regard to the positions of the heavy weights."

It was then arranged for Mr. Webb to give his evidence on Monday.

Leslie Watson, second officer of the *Vestris*, was asked by E. A. Digby, counsel for the relatives of victims of the disaster, whether anything had passed between Captain Carey and him in the very last critical moments.

"I don't know whether Captain Carey was speaking to himself or to me," said Mr. Watson. "All he said was, 'My God, I am not to blame for this.' That was when the ship was nearly down."

Mr. Watson later said, "Captain Heasley asked me about the *Vestris*'s draft and I gave him the figures. Mr. Heasley said, 'No, no, that is not it; this is the draft we are using,' and gave me different figures."

The inquiry was adjourned to Monday.

JOHNSON STORY DIFFERENT HERE

Much of the important testimony given in London by Chief Officer Johnson is not included in the records taken during the American investigation into the sinking of the *Vestris*. It took Department of Justice agents two days to find Mr. Johnson before they could serve a subpoena to appear as a witness here. When he did take the stand to be questioned by Capt. E. P. Jessop, he told a story that was not flattering to himself or the other officers, including his dead captain.

When he was questioned by United States Attorney Tuttle here as to his theory of the sinking of the *Vestris*, Mr. Johnson said nothing about overloading. He said he believed it was due to "exceptionally bad weather" which was in contradiction to Captain Carey's radio message that the sea was "moderately rough."

Mr. Johnson gave no intimation at the investigation here that he had received orders to enter false records as to the liner's draft. He was a difficult witness and was forced to admit his ignorance of certain of his duties. His excuse for this was that he had been made chief officer on the *Vestris* the day before the liner left New York on its last voyage.

Although he testified that he had charge of all lifeboats and the crew, he admitted here that the boats had been lowered haphazardly and the passengers put into them without a semblance of good order; that the other ship's officers refused to take his instructions to take command of the boats, and that he sent away lifeboat 1, the only one with an engine, without putting an engineer aboard.

Captain Jessop, obviously angered by these admissions, delved deeper into this matter until Mr. Johnson asked:

"What could I do in a case like this?"

"You ask me that question?" retorted the retired naval officer.

PROHIBITION

Mr. TYDINGS. Mr. President, I ask unanimous consent to have inserted in the RECORD a newspaper editorial by William Randolph Hearst, commenting on President Hoover's recent speech on law and order before the members of the Associated Press.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WE NEED LAWS WE CAN RESPECT, W. R. HEARST REPLIES TO PRESIDENT

[Reprinted from Kansas City Star of April 25]

President Hoover's address on law enforcement at the Associated Press luncheon in New York was a shot in the air—a blank cartridge discharged against a blank wall.

Everybody knows that the laws ought to be enforced.

Everybody knows that the President ought to enforce the laws as far as comes within the obligation of his office.

Everybody knows that the laws ought to be respected, just as everybody knows that women ought to be respected, and that women are respected by every decent man.

But occasionally there is a woman who is not respected, who is not respectable, who does not respect herself, and whom no one in his heart can respect, no matter what outward observance of respect he may render.

And so, occasionally, there are laws which can not be respected no matter how they are observed by good citizens.

And there are lawmakers who can not be respected—such, for instance, as gentlemen who impose dry laws upon the land and carry whisky flasks in their hip pockets.

Respect for law is a good thing when the laws and lawmakers are worthy of respect.

But if the American people had had respect for all laws, good or bad, there would have been no Boston Tea Party to protest against the invasion of the rights and liberties of our people; no Declaration of Independence to declare liberty and equality as the inalienable rights of man; no United States of America to establish liberty and equality as the foundation stones of republican government; and in that sad case, no President Hoover, but only a certain Herbert Hoover, eminent engineer, and a loyal and law-respecting subject of His Majesty King George V.

Of course, there should be respect for law in the abstract, but first there should be laws which deserve respect.

It is better to respect the fundamental American principles of liberty, equality, and justice than it is to respect laws which infringe upon these inalienable rights of man.

Of course, there should be respect for the lawmakers; but how can lawmakers be respected who first take a drink and then pass a law imposing five years' penal servitude and \$10,000 fine upon any citizen who takes a drink, and then go back and take another drink out of a bottle of whisky which they have smuggled through the customs under their privilege as Congressmen?

Of course, law-enforcement machinery should be respected; but how can it be respected when the head of the machine tells the law-enforcement officers that the recent liquor law must not be enforced against all the community, but only against part of the community—must not be enforced in all cases, but only in some cases—and that the discretion for its enforcement lies in the hands of the law-enforcing officers?

How wide open this decision leaves the door to blackmail and bribery and corruption, when corruption is already rotting the social and political fabric of the Nation!

How this decision shatters the foundation stones of the Republic!

The corner stone of liberty has already been reduced to dust.

And now another corner stone—equality before the law—is crumbling before our eyes.

President Hoover says in the course of his speech at the Associated Press luncheon:

"We have reason to pride ourselves on our institutions and the high moral instincts of the great majority of our people."

Then, later on, the President complains of—

"The possibility that respect for law as law is fading from the sensibilities of our people."

There is nothing the matter with the institutions we have—or, rather, used to have. They embody the basic principles of liberty, equality, and equity, upon which rest the peace and happiness of mankind.

We "pride ourselves upon our institutions," as the President truly says.

There is nothing the matter with them if we can only preserve them.

There is nothing the matter with our people. They are a great people and a good people, with "high moral instincts," as President Hoover describes them.

If, therefore, there is, as President Hoover fears, "the possibility that respect for law as law is fading from the sensibilities of our people," then there must inevitably be something the matter with the law.

If there is no sufficient respect for law when our institutions are sound and our people are good, then the inescapable conclusion is that our laws must be bad.

If there is "the possibility that respect for law as law is fading from the sensibilities" of our highly moral people, then it must be that the laws, or a considerable portion of them, are unworthy of respect by a highly moral people.

That is the unavoidable conclusion, and that conclusion makes the character of our laws the crucial question for the American people to consider.

President Hoover's speech is a shot in the air—a blank cartridge fired at a blank target—because it avoids the crucial question of the cause of law infraction and concerns itself only with the superficials of law enforcement and of penalties for law infraction.

President Hoover forgets the old adage that "an ounce of prevention is worth a pound of cure," and that if an ounce of prevention is worth a pound of cure an ounce of prevention is worth 10 pounds of penalties which do not cure.

President Hoover says:

"We have two immediate problems before us in government, to investigate our existing agencies of enforcement and to reorganize our system of enforcement."

He overlooks entirely the crucial question of re-forming our laws and returning in our law construction and law enforcement to the fundamental American principles of liberty, equality, and essential equity.

Surely there is something the matter with the law when the lawmakers themselves break it as soon as it is made.

Surely there is something the matter with the law when the law-enforcement officers may decide in their discretion to whom it shall apply.

Surely there is something the matter with the law when a Cossack crew of enforcement officers violate all popular rights and liberties and break into a man's house on a warrant obtained on perjured testimony and beat him into insensibility and shoot his wife to death as she sits at a telephone trying to get help for her husband.

President Hoover complains of the small percentage of convictions of criminals under existing laws and asks for severer penalties, apparently unconscious of the well-known fact that severe penalties, out of harmony with the sentiment of a community, always result in fewer convictions and greater encouragement of crime; because no criminal is deterred by a law if he is not afraid of conviction under the law.

President Hoover recognizes "the vast sums that are poured into the hands of the criminal classes by the patronage of illicit liquor by otherwise responsible citizens."

But he does not seem to realize that these vast sums have financed the underworld and are chiefly to blame for the wide extension of crime and the effective organization of the criminal classes in all lines of criminal endeavor.

How great that extension of crime and that organization of criminal classes are can best be told in the President's own words, when he says:

"Twenty times as many people in proportion to population are lawlessly killed in the United States as in Great Britain."

"At least fifty times as many robberies in proportion to population are committed in the United States as in Great Britain, and three times as many burglaries."

"Life and property are relatively more unsafe than in any other civilized country in the world."

In spite of all this, the President apologizes for the contaminating conditions under prohibition and declares that "it is only a section of the invasion of lawlessness."

Can it be that the Jones law is in accord with the President's idea of proper legislative procedure—the Jones law, which is widely regarded as the most menacing piece of repressive legislation that has stained the statute books of this Republic since the alien and sedition laws under John Adams, which permanently put the Federalist Party out of power and installed the Democratic-Republican Party under Jefferson to preserve the right and liberties of American citizens?

The Jones Act calls for more vigorous and more vindictive enforcement of the sumptuary laws.

The Jones Act increases the penalties until the citizen who commits what can only be regarded as a misdemeanor is punished for a high crime.

The Jones Act adds persecution to prohibition, and in our principles of government substitutes fanaticism for freedom.

The Jones Act destroys the American ideals of liberty which have been our boast and our boon, and imposes upon our people the European idea of governmental tyranny which our fathers came to this country to avert and avoid.

Withal, the Jones Act will defeat its own narrow purposes, and, instead of creating a condition of rigid restriction, will cause—

First. Fewer convictions because of over-severe penalties.

Second. More killings for fear of possible infliction of the severe penalties.

Third. More corruption to avoid arrests and possible convictions.

Fourth. Higher prices for liquor on account of greater risks, and consequently greater profit in crime.

Fifth. More violence and more violation of popular rights.

Sixth. More conflict between the extremes of bonhead dries and bullhead wets, with more distress and discomfort to the moderate, temperate, peace-loving, liberty-loving mass of our citizenship.

Seventh. More cant and hypocrisy in public life, more insincerity among public men, and more disposition on the part of the public to consider the lawmakers of the land a lot of fools and frauds and fanatics—all of which could be avoided if the party in power would remember that it was elected on the Republican ticket, and not on the prohibition ticket, and that it could best serve its party and its country by restoring the principles of liberty and equality and justice for which our fathers fought.

For be it remembered that our fathers shed their blood, not for laws, but for principles.

WILLIAM RANDOLPH HEARST.

AMENDMENT OF STANDING RULE XXV

Mr. BINGHAM. Mr. President, a few days ago I introduced a resolution proposing to change the name of the Committee on Territories and Insular Possessions to the Committee on Territorial and Insular Affairs. The resolution now lies upon the

table where I have left it in order to consult with the leaders on both sides of the aisle. So far as I can find there is no objection to it. It is believed that it would be more agreeable to the people living in the islands under the American flag if the committee were referred to as the Committee on Territorial and Insular Affairs, as is the House committee, rather than as the Committee on Territories and Insular Possessions. I ask that the resolution may be taken from the table and passed.

The VICE PRESIDENT. The clerk will read the resolution for the information of the Senate.

The Chief Clerk read the resolution (S. Res. 55) submitted by Mr. BINGHAM on the 6th instant, as follows:

Resolved, That the last paragraph of section 1 of Rule XXV of the Standing Rules of the Senate be, and hereby is, amended to read as follows: "Committee on Territorial and Insular Affairs, to consist of 14 Senators."

Mr. ROBINSON of Arkansas. Mr. President, may I ask the Senator from Connecticut the purpose of the resolution?

Mr. BINGHAM. The purpose of the resolution is merely to change the name of the committee from the Committee on Territories and Insular Possessions to the Committee on Territorial and Insular Affairs. That is the only change.

Mr. ROBINSON of Arkansas. I have no objection to the resolution.

Mr. KING. Mr. President, may I ask the Senator from Connecticut a question? If adopted, will the resolution affect the size of the committee?

Mr. BINGHAM. It will make no change in the size of the committee.

Mr. ROBINSON of Arkansas. It merely proposes to change the name of the committee.

Mr. KING. I am inclined to think that it is a wise suggestion, and, if the Senator will allow me further, I think it would be well, although, of course, it may not be done under the pending resolution, to declare that we do not intend to hold territorial possessions for exploitation, but will adhere to the view that all persons living under the flag shall be entitled to the rights that belong to all citizens of the United States residing in territory now within the continental United States.

Mr. ROBINSON of Indiana. I am not familiar with the resolution, and I should like to have it go over in order that I may examine it. I shall have to object.

The VICE PRESIDENT. Under objection, the resolution will go over.

ANDREW W. MELLON, SECRETARY OF THE TREASURY

Mr. McKELLAR. Mr. President, I desire to call the attention of the Senate to an anonymous circular which I will read. It is as follows:

AMERICAN TAXPAYERS LEAGUE,
Washington, D. C., May 1, 1929.

SECRETARY MELLON'S QUALIFICATIONS QUESTIONED

An effort to disqualify Secretary Mellon from holding position as a Cabinet officer is under way in the Senate, led by Senator NORRIS, of Nebraska. The Secretary is charged with owning stock in corporations. He plead guilty to the charge, but stated that he did not own a majority of the stock in any corporation and was not an officer or director of any corporation.

The subject is now before the Judiciary Committee of the Senate, and the committee is said to be evenly divided on the resolution to disqualify the Secretary. The members of the Judiciary Committee are:

Republicans: George W. Norris, Nebraska, chairman; William E. Borah, Idaho; Charles S. Deneen, Illinois; Frederick H. Gillett, Massachusetts; Arthur R. Robinson, Indiana; John J. Blaine, Wisconsin; Frederick Steiwer, Oregon; Charles W. Waterman, Colorado; Daniel O. Hastings, Delaware; and Theodore E. Burton, Ohio.

Democrats: Lee S. Overman, North Carolina; Henry F. Ashurst, Arizona; Thomas J. Walsh, Montana; Thaddeus H. Caraway, Arkansas; William H. King, Utah; Hubert D. Stephens, Mississippi; and C. C. Dill, Washington.

We are inclosing copy of cartoon appearing in the Washington Star which very clearly and cleverly presents the case.

The question will reach the Senate either through a majority or a minority report. We would suggest that you write your Senators, giving them your views on the subject, as it is an issue which is rather a fundamental one in managerial policies of our Government.

This circular is not signed, but there is attached to it the cartoon appearing in the Sunday Star of April 28, 1929. I have received, I think, about eight letters, apparently in response to this anonymous propaganda that is being sent out by what is stated at the top of the circular to be the "American Taxpayers' League." I do not know what that league is; I do not know who compose it or what connection they have with this matter at all, but I think the Senate ought to know when its Members get letters in response to the matter that most

probably they are the result of this anonymous propaganda. I ask that the circular may be published in the RECORD.

The VICE PRESIDENT. Having been read, the circular will appear in the RECORD.

Mr. SMOOT. Mr. President, I desire to ask the Senator from Tennessee a question.

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Utah?

Mr. COPELAND. I yield to the Senator from Utah.

Mr. SMOOT. Did I understand the Senator from Tennessee to request that the cartoon also be published in the RECORD?

Mr. McKELLAR. As I understand, the cartoon can not be printed in the RECORD without a special order, and I am not asking that that be done.

Mr. SMOOT. It was to that matter that I desired to direct attention.

Mr. NORRIS. Mr. President, with the permission of the Senator from New York [Mr. COPELAND], I should like to say that I also have received through the mails a circular similar to that read by the Senator from Tennessee. I thought it was hardly worthy of attention, but since it has been brought up I should like to say that the so-called American Taxpayers' League have not disclosed who they are, what their object is, or given any other information. There is nothing appearing in the propaganda letter which they have sent out to show the name of anyone who is connected with the so-called league.

What I want to call to the attention of the Senate, and I hope to the attention of the country, is that the question submitted to the Judiciary Committee was a question of law and intermingled with it was a question of fact. This circular is an attempt by propaganda to induce people to write to members of the Judiciary Committee in an attempt to influence them to cast their official votes regardless of what they may think to be the law and the facts as disclosed before them. That is as improper as though such a circular were sent to members of the Supreme Court who had before them a question to determine which had been argued and submitted to the court.

If it had happened in the case of the court instead of the committee, every letter sent out would be a contempt of court and the writers ought to be punished accordingly. It is an attempt to induce Members of the Senate who are members of the Judiciary Committee to violate their oath of office and to pass upon a question of law which has been submitted to them by the Senate, as though it were a question involving the erection of a public building or the establishment of a new judicial district or something that was purely a matter of legislation. I think, however, that Members of the Senate reading the circular which has been sent out to induce people to write to them on this question will not be misled, because any member of the Judiciary Committee called upon to decide a question which has been submitted to that committee by the Senate who would follow any such suggestion would be not only unworthy to be a member of the Judiciary Committee but also to be a Member of the Senate itself.

Mr. McKELLAR. Mr. President, in view of the fact that the letter which has been sent out will be published in the RECORD, I ask unanimous consent to have printed at this point in the RECORD the report of the majority of the committee and the various minority views as they have been submitted to the Senate.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

The report (S. Rept. No. 7) and the several minority views are as follows:

[S. Rept. No. 7, 71st Cong., 1st sess.]

ELIGIBILITY OF HON. ANDREW W. MELLON, SECRETARY OF THE TREASURY—REPORT OF THE COMMITTEE ON THE JUDICIARY, PURSUANT TO SENATE RESOLUTION 2, RELATIVE TO THE TENURE OF OFFICE OF HEADS OF DEPARTMENTS AND THE RIGHT OF ANDREW W. MELLON TO HOLD THE OFFICE OF SECRETARY OF THE TREASURY, TOGETHER WITH THE MINORITY VIEWS OF MR. NORRIS, MR. CARAWAY, MR. WALSH OF MONTANA, AND MR. BLAINE; THE ADDITIONAL VIEWS OF MR. BLAINE AND MR. WALSH OF MONTANA, RESPECTIVELY; THE VIEWS OF MR. BORAH, MR. KING, AND MR. DILL; AND THE INDIVIDUAL VIEWS OF MR. ASHURST

[S. Rept. No. 7, pt. 1, 71st Cong., 1st sess.]

ELIGIBILITY OF HON. ANDREW W. MELLON, SECRETARY OF THE TREASURY
Mr. STEIWER, from the Committee on the Judiciary, submitted the following report (pursuant to S. Res. 2):

On March 5, 1929, the Senate of the United States passed the following resolution:

"Resolved, That the Committee on the Judiciary be, and it is hereby, directed to inquire into and report to the Senate—

"1. Whether the head of any department of the Government may legally hold office as such after the expiration of the term of the President by whom he was appointed.

"2. Whether, in view of the provisions of the laws of the United States, Andrew W. Mellon may legally hold the office of Secretary of the Treasury, reference being made to section 243 of title 5 of the Code of Laws of the United States of America, as follows:

"SEC. 243. Restrictions upon Secretary of the Treasury: No person appointed to the office of Secretary of the Treasury, or Treasurer, or Register, shall directly or indirectly be concerned or interested in carrying on the business of trade or commerce, or be owner in whole or in part of any sea vessel, or purchase by himself, or another in trust for him, any public lands or other public property, or be concerned in the purchase or disposal of any public securities of any State, or of the United States, or take or apply to his own use any emolument or gain for negotiating or transacting any business in the Treasury Department, other than what shall be allowed by law; and every person who offends against any of the prohibitions of this section shall be deemed guilty of a high misdemeanor and forfeit to the United States the penalty of \$3,000, and shall upon conviction be removed from office, and forever thereafter be incapable of holding any office under the United States; and if any other person than a public prosecutor shall give information of any such offense, upon which a prosecution and conviction shall be had, one-half the aforesaid penalty of \$3,000, when recovered, shall be for the use of the person giving such information."

"And to section 63 of title 26 of the Code of Laws of the United States, as follows:

"SEC. 63. Interest in certain manufactures or production of liquors by revenue officers prohibited: Any internal-revenue officer who is or shall become interested, directly or indirectly, in the manufacture of tobacco, snuff, or cigars, or in the production, rectification, or redistillation of distilled spirits, shall be dismissed from office; and every officer who becomes so interested in any such manufacture or production, rectification, or redistillation, or in the production of fermented liquors, shall be fined not less than \$500 nor more than \$5,000. The provisions of this section shall apply to internal-revenue agents as fully as to internal-revenue officers."

Pursuant to said resolution the Committee on the Judiciary has held numerous meetings and has gathered certain information and has made careful examination of the provisions of section 243 of title 5 and section 63 of title 26 of the Code of Laws of the United States.

The Committee on the Judiciary, to whom the said resolution was referred, having fully considered the same, now report thereon as follows:

Answering question (1) of the resolution, it is the opinion of the committee that the head of any department of the Government may legally hold office as such after expiration of the term of the President by whom he was appointed. In the consideration of this matter the committee assumed that the words "head of any department" are intended to embrace the heads of the executive departments, which make up the President's Cabinet. The committee further assumed that the question was to be regarded as limited to those offices not specially governed by statute, and the foregoing opinion, therefore, has no application to the tenure of office of the Postmaster General.

Answering question (2) of the resolution, the committee is of the opinion that Andrew W. Mellon may legally hold the office of Secretary of the Treasury under the requirements of section 243, title 5, and section 63 of title 26 of the Code of Laws. It is a well-known fact that Mr. Mellon was appointed Secretary of the Treasury by President Harding and was confirmed by the Senate in 1921, and that he has held office for more than eight years. The question asked the committee is whether he may legally hold the office. This question we have answered in the affirmative.

The question presented requires an interpretation of section 243, the significant language of which is as follows:

"No person appointed to the office of Secretary of the Treasury . . . shall directly or indirectly be concerned or interested in carrying on the business of trade or commerce."

It is contended by certain members of the committee, who are not parties to this report, that mere ownership of stock in a corporation which is engaged in trade or commerce is a violation of the law and that such ownership disqualifies the Secretary of the Treasury.

It is clear to the signers of this report that the statute condemns only an interest or concern, direct or indirect, "in carrying on the business of trade or commerce." With respect to a corporation this means that the Secretary of the Treasury shall not hold office as a director or as an officer, and that he shall not by any means, either direct or indirect, participate in any activity in carrying on the business of a corporation if the corporation is engaged in trade or commerce. This, in our opinion, is a reasonable, proper, and correct interpretation of the statute.

This interpretation is supported by the fact that numerous Secretaries of the Treasury have owned stock in corporations engaged in trade. It is inconceivable that all these Secretaries willfully violated the law, and equally inconceivable that the Presidents under whom they

served would have appointed men of known ineligibility, or that the Senate would have confirmed ineligible appointees. Obviously it has been thought in many official quarters that the section referred to did not apply to mere ownership of corporate stock.

Contemporaneous and subsequent departmental and executive construction is entitled to great weight. Moreover, as the statute is a penal statute, its meaning may not be extended by construction, but in case of doubt should be given a restricted construction. We feel that the construction which we have placed on the act is not only thoroughly consistent with its language but is compelled by the ordinary rules of statutory construction as well as long-established practice.

Some of those agreeing to this report question the jurisdiction of the committee to proceed in this inquiry beyond an interpretation of the statute in question, on the ground that it would be a judicial inquiry and is not in aid of any legislative function of the Senate, and that there is no legislation pending or proposed which would bring the investigation within the lawful power of the Senate or of the Committee on the Judiciary. They believe that it is improper for the Senate to prosecute this investigation because by the Constitution the initiative has been vested in another body.

The committee did not subpoena witnesses. It considered certain information and data which was presented to the committee. With full knowledge that the facts may not all have been ascertained, we have answered question (2) literally in the language of Senate Resolution 2, viz, that Mr. Mellon "may legally hold the office of Secretary of the Treasury." In addition, it is our opinion, upon the facts which the committee has considered, that Mr. Mellon does legally hold the office, and it is also our opinion that no contrary conclusion can properly be reached except through duly instituted criminal proceedings or impeachment proceedings originating in the House of Representatives.

Relative to section 63 of title 26 of the Code of Laws, the committee finds nothing in Mr. Mellon's business relations that would make him ineligible under this section. The facts obtained by the committee disclose the only concern in which Mr. Mellon was ever interested, which was engaged in the production, rectification, or redistillation of distilled spirits, ceased such activities long before the adoption of the eighteenth amendment and long before Mr. Mellon assumed office as Secretary of the Treasury.

This committee report is concurred in by a majority consisting of the following-named members: Overman, Deneen, Gillett, Robinson (Indiana), Stephens, Steiwer, Waterman, Hastings, and Burton.

[S. Rept. No. 7, pt. 2, 71st Cong., 1st sess.]

ELIGIBILITY OF HON. ANDREW W. MELLON, SECRETARY OF THE TREASURY

Mr. NORRIS, from the Committee on the Judiciary, submitted the following minority views (pursuant to S. Res. 2):

The undersigned members of the Committee on the Judiciary, being unable to agree with the conclusions reached by the majority of said committee on Senate Resolution 2, relative to the tenure of office of heads of departments and the right of Andrew W. Mellon to hold the office of Secretary of the Treasury, beg leave to submit herewith our views upon the questions asked by the Senate in said Senate Resolution 2.

The resolution reads as follows:

"Resolved, That the Committee on the Judiciary be, and it is hereby, directed to inquire into and report to the Senate—

"1. Whether the head of any department of the Government may legally hold office as such after the expiration of the term of the President by whom he was appointed.

"2. Whether in view of the provisions of the laws of the United States Andrew W. Mellon may legally hold the office of Secretary of the Treasury, reference being made to section 243 of title 5 of the Code of Laws of the United States of America, as follows:

"SEC. 243. Restrictions upon Secretary of Treasury: No person appointed to the office of Secretary of the Treasury, or Treasurer, or Register, shall directly or indirectly be concerned or interested in carrying on the business of trade or commerce, or be owner in whole or in part of any sea vessel, or purchase by himself, or another in trust for him, any public lands or other public property, or be concerned in the purchase or disposal of any public securities of any State, or of the United States, or take or apply to his own use any emolument or gain for negotiating or transacting any business in the Treasury Department, other than what shall be allowed by law; and every person who offends against any of the prohibitions of this section shall be deemed guilty of a high misdemeanor and forfeit to the United States the penalty of \$3,000, and shall upon conviction be removed from office, and forever thereafter be incapable of holding any office under the United States; and if any other person than a public prosecutor shall give information of any such offense, upon which a prosecution and conviction shall be had, one-half of the aforesaid penalty of \$3,000, when recovered, shall be for the use of the person giving such information."

"And to section 63 of title 26 of the Code of Laws of the United States, as follows:

"SEC. 63. Interest in certain manufactures or production of liquors by revenue officers prohibited: Any internal-revenue officer who is or shall become interested, directly or indirectly, in the manufacture of

tobacco, snuff, or cigars, or in the production, rectification, or redistillation of distilled spirits, shall be dismissed from office; and every officer who becomes so interested in any such manufacture or production, rectification, or redistillation, or in the production of fermented liquors, shall be fined not less than \$500 nor more than \$5,000. The provisions of this section shall apply to internal-revenue agents as fully as to internal-revenue officers."

The first question submitted to the Judiciary Committee by the Senate is: Can the head of any department of the Government legally hold office as such after the expiration of the term of the President by whom he was appointed?

The appointment of the heads of departments by the President is provided for by section 2, Article II, of the Constitution of the United States; but the Constitution nowhere fixes the length of the term of such officials, and it therefore follows that they can hold their respective positions indefinitely unless removed by the President.

Congress passed no law relating to the length of the tenure of office of any of the heads of departments until it passed the act of March 2, 1867 (14 Stat. 430). This act, known as the tenure of office act, provided that the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster General and the Attorney General "shall hold their offices, respectively, for and during the term of the President by whom they may have been appointed and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

Two years later Congress amended this act by the act of April 5, 1869 (16 Stat. 6). This act repealed the section of the act of March 2, 1867, relating to the tenure of office of the heads of departments and enacted in lieu thereof the following:

"That every person holding any civil office to which he has been or hereafter may be appointed by and with the advice and consent of the Senate, and who shall have become duly qualified to act therein, shall be entitled to hold such office during the term for which he shall have been appointed, unless sooner removed by and with the advice and consent of the Senate, or by the appointment, with the like advice and consent, of a successor in his place, except as herein otherwise provided."

The balance of the act from which the above quotation is made in no way modifies or changes the portion above quoted.

The section last above quoted afterwards became section 1767 of the Revised Statutes of 1878. This section of the Revised Statutes (sec. 1767) was afterwards, by the act of March 3, 1887 (24 Stat. 500), expressly repealed, leaving, with one exception (hereinafter noted), nothing in the statutes relating to the tenure of office of heads of departments.

This exception was that relating to the tenure of office of the Postmaster General. The original act establishing the Post Office Department and providing for a Postmaster General to be the head thereof was the act of May 8, 1794 (1 Stat. 357). This act contained no provision whatever as to the tenure of office of the Postmaster General, but, by the act of June 8, 1872 (17 Stat. 283), revising the laws relating to the Post Office Department, the tenure of office of the Postmaster General was fixed "for and during the term of the President by whom he is appointed, and for one month thereafter, unless sooner removed." This provision afterwards became section 388 of the Revised Statutes and is now section 361, title 5, of the United States Code.

As the law now stands, the Postmaster General is the only head of a department whose tenure of office is definitely fixed by law, although, as will appear hereafter, the laws relating to the tenure of office of the Secretary of Commerce and likewise of the Secretary of Labor are different from the statutes relating to the office of the heads of any other executive departments.

It may be interesting and perhaps instructive to give a brief legislative history of the establishment of the various executive departments of the Government and the provisions made in such statutes for the heads of these departments.

DEPARTMENT OF STATE

The Department of State was established by the act of July 27, 1789 (1 Stat. 28), and was denominated the "Department of Foreign Affairs," with a head to be known as the "Secretary for the Department of Foreign Affairs." Later, by the act of September 15, 1789 (1 Stat. 68), the name of the department was changed to "Department of State" and the name of the head of the department was designated as "Secretary of State." There was no provision in either of these acts as to the tenure of office of the Secretary of State. These provisions of law later became section 199 of the Revised Statutes and now constitute section 151 of title 5 of the United States Code.

DEPARTMENT OF WAR

The War Department was created by the act of August 7, 1789 (1 Stat. 49), which also provided that the head of the department should be known as the "Secretary for the Department of War." This statute afterwards became section 214 of the Revised Statutes and

is now section 181 of title 5 of the United States Code. None of these statutes contained any provisions relating to the length of the term of office of the head of this department.

DEPARTMENT OF THE TREASURY

The Department of the Treasury was established by the act of September 2, 1789 (1 Stat. 65). It was provided in such act that the head of the department should be known as "Secretary of the Treasury," but nothing was said in the act as to the tenure of office of the Secretary. The act, without change in this respect, afterwards became section 233 of the Revised Statutes and is now section 241 of title 5 of the United States Code.

DEPARTMENT OF JUSTICE

The original act creating the Department of Justice was passed June 22, 1870 (16 Stat. 162). The first act providing for the office of Attorney General was the act of September 24, 1789 (1 Stat. 93), but the Attorney General was not the head of a department until the creation of the Department of Justice in 1870, nearly 100 years later. Neither of these acts, however, contained any provision fixing a definite term of office for the Attorney General. The act of 1870, creating the department, became section 346 of the Revised Statutes and is now section 291 of title 5 of the United States Code.

POST OFFICE DEPARTMENT

The Post Office Department was established and provision made for the appointment of a Postmaster General by the act of May 8, 1794 (1 Stat. 354), but this act contained no provision as to the length of the term of office of the Postmaster General. In 1872 an act was passed to revise the statutes relating to the Post Office Department (17 Stat. 283) in which it was provided that the Postmaster General "shall be appointed by the President, by and with the advice and consent of the Senate, and who may be removed in the same manner; and the term of office of the Postmaster General shall be for and during the term of the President by whom he is appointed, and for one month thereafter, unless sooner removed."

This statute is the existing law. It became section 388 of the Revised Statutes and is now section 361 of title 5 of the United States Code.

It will be observed that the term of office of the head of this department is definitely fixed and that the consent of the Senate is necessary to his removal as well as to his appointment. It should be stated, however, in this connection, that Congress has no constitutional authority to deprive the President of the power of removal of executive officers where they have been appointed by the President by and with the advice and consent of the Senate. (See *Myers, Administratrix v. United States*, 272 U. S. 52.) It will be observed, also, that with the possible exception of the Secretary of Commerce and the Secretary of Labor (hereinafter noted) it is the only instance where existing law makes any provision for the term of office of any of the heads of departments.

DEPARTMENT OF THE NAVY

The Navy Department was established by the act of April 30, 1798 (1 Stat. 553). It was provided that the head should be designated as the "Secretary of the Navy," but nothing was said in the act regarding the tenure of office of the Secretary and no later act has in any way modified the original one. This act later became section 415 of the Revised Statutes and is now section 411 of title 5 of the United States Code.

DEPARTMENT OF THE INTERIOR

The Department of the Interior was created by the act of March 3, 1849 (9 Stat. 395), and provision was made in the act for the Secretary of the Interior as the head of the department. Unlike the other acts establishing the other departments, this act specifically provided that the Secretary "shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and who shall hold his office by the same tenure and receive the same salary as the Secretaries of the other executive departments."

Under this act it would probably have required the consent of the Senate for the removal of the Secretary, but when the Revised Statutes were enacted the act was changed and all reference to the method of appointment of the head of the department and his tenure of office was omitted. (Rev. Stat. sec. 437.) This section of the Revised Statutes is now section 481 of title 5 of the United States Code.

DEPARTMENT OF AGRICULTURE

The Department of Agriculture was established with a Commissioner of Agriculture as the head by the act of May 15, 1862 (12 Stat. 387). This act provided, in section 2, "That there shall be appointed by the President, by and with the advice and consent of the Senate, a 'Commissioner of Agriculture,' who shall be the chief executive officer of the Department of Agriculture, who shall hold his office by a tenure similar to that of other civil officers appointed by the President, and who shall receive for his compensation a salary of \$3,000 per annum." The law was afterwards changed by the act of February 9, 1889 (25 Stat. 659).

The amendatory act changed the name of the head of the department to that of "Secretary of Agriculture" and reenacted the provision as to the method of appointing the head, but omitted entirely the provision relating to his tenure of office, hence as the law now stands there is no statute making any reference to the term of office of the Secretary of Agriculture. The statute covering the subject is now found in sections 511 and 512 of title 5 of the United States Code.

DEPARTMENTS OF LABOR AND OF COMMERCE

The legislative history of these two departments is considerably intermingled. The Department of Labor was first established by the act of June 13, 1888 (25 Stat. 182). The head of the department was designated as a Commissioner of Labor and it was provided that he "shall be appointed by the President, by and with the advice and consent of the Senate; he shall hold his office for four years, unless sooner removed, and shall receive a salary of \$5,000 per annum." By the act of February 14, 1903 (32 Stat. 825) the Department of Commerce and Labor was established, and the Department of Labor as theretofore existing was merged with the new department thus created. It was provided that the head of this new department should be the "Secretary of Commerce and Labor." This act provided that the head of the department "shall be appointed by the President, by and with the advice and consent of the Senate, who shall receive a salary of \$8,000 per annum, and whose term and tenure of office shall be like that of the heads of the other executive departments." This provision as to the method of appointment of the head of the department and as to his term and tenure of office has not been changed by Congress since its original enactment. It is now contained in section 591 of title 5 of the United States Code, the act establishing the Department of Commerce.

This remained the law, and the Department of Commerce and Labor remained as one department until the passage of the act of March 4, 1913 (37 Stat. 736), when the Department of Commerce and Labor was separated by the creation, for the second time, of a Department of Labor. In this act the head of the Department of Commerce remained as the "Secretary of Commerce," and it was provided that the head of the new Department of Labor should be designated as the "Secretary of Labor." This act separating the departments and creating the Department of Labor as a separate department contained the same provision as to the tenure of office of the Secretary of Labor as is contained in the law providing for the tenure of office of the Secretary of Commerce, to wit: " * * * who shall be the head thereof, to be appointed by the President, by and with the advice and consent of the Senate, * * * and whose tenure of office shall be like that of the heads of the other executive departments."

It will be seen, therefore, that the laws in regard to the tenure of office of the Secretary of Commerce and of the Secretary of Labor are indefinite. They fix the terms of office of these two Secretaries by reference to the terms of office of other heads of departments, wherein, with the exception of the Postmaster General, no term is fixed by law. It would hardly be reasonable to suppose that Congress intended in these two instances, when it said "and whose tenure of office shall be like that of the heads of the other executive departments," that it had reference to the tenure of office of the Postmaster General when that office was the only one of the entire list where the law specifically fixed the term of office. It is not reasonable to suppose that Congress in the passage of these two acts had in mind the exception rather than the general rule, and since the tenure of office as to all of the heads of departments except the Postmaster General is not fixed by statute, it would follow that Congress in enacting these statutes applying to the Departments of Commerce and Labor did not fix any tenure of office for the heads of those two departments.

The Constitution nowhere fixes the terms of office of the heads of departments and, with the exception of the Postmaster General, there is no law of Congress fixing any of these terms. We, therefore, conclude that with the exception of the Postmaster General the heads of all the executive departments of the Government may legally hold office as such after the expiration of the term of the President by whom appointed.

HISTORICAL PRECEDENTS

An examination of the precedents discloses that heads of executive departments have continued to hold office as such after the expiration of the term of the President by whom they were appointed in a total of 110 instances.

During the second term of President Washington, Timothy Pickering, of Pennsylvania, was appointed Secretary of State. He held the position during the remainder of Washington's term and continued without reappointment after the inauguration of John Adams. After he had served as such Secretary of State during three years of Adams's administration he was asked to resign and refused to do so. He was dismissed by President Adams on May 12, 1800.

It would appear from this that the statesmen of the early days who had much to do with the framing of the Constitution, many of whom actively participated in the framing of that instrument, were of the opinion that unless Congress definitely fixed a term of office for the heads of departments, such officials would remain in office indefinitely. The case of Mr. Pickering seems to be important as

showing the opinion of men who were actively administering the affairs of Government soon after the Constitution was adopted.

The practice of holding over without reappointment was general until the passage of the act of March 2, 1867, limiting the term of heads of departments to four years and one month. This provision of law was in force only two years when it was repealed. While the practice since that time has not been uniform, it has been sufficiently so to clearly show that all those in authority took it for granted that with the exception of the Postmaster General, the heads of all executive departments of the Government held their respective positions indefinitely, subject to removal at any time by the President.

The following table, prepared by Mr. Cozier, assistant clerk of the Judiciary Committee, shows the instances where heads of departments have held office without reappointment, after the expiration of the term of the President by whom they were appointed:

Table showing instances where heads of departments have held office, without reappointment, after the expiration of the term of the President by whom they were appointed

Washington, 1793, Secretary of State, Secretary of the Treasury, Secretary of War, Attorney General, and Postmaster General.	5
Adams, 1797, Secretary of State, Secretary of the Treasury, Secretary of War, Attorney General, and Postmaster General.	5
Jefferson, 1801, Secretary of the Treasury, Secretary of the Navy, and Postmaster General.	3
Jefferson, 1805, Secretary of State, Secretary of the Treasury, Secretary of War, Secretary of the Navy, and Postmaster General.	5
Madison, 1809, Secretary of the Treasury, Secretary of the Navy, Attorney General, and Postmaster General.	4
Madison, 1813, Secretary of State, Secretary of the Treasury, Secretary of War, Secretary of the Navy, Attorney General, and Postmaster General.	6
Monroe, 1817, Secretary of the Navy, Attorney General, and Postmaster General.	3
Monroe, 1821, Secretary of State, Secretary of the Treasury, Secretary of War, Secretary of the Navy, Attorney General, and Postmaster General.	6
Adams, 1825, Secretary of the Navy, Attorney General, and Postmaster General.	3
Jackson, 1829, Postmaster General.	1
Jackson, 1833, Secretary of State, Secretary of the Treasury, Secretary of War, Secretary of the Navy, Attorney General, and Postmaster General.	6
Van Buren, 1837, Secretary of State, Secretary of the Treasury, Secretary of War, Secretary of the Navy, Attorney General, and Postmaster General.	6
Harrison, 1841.	None.
Tyler, 1841, Secretary of State, Secretary of the Treasury, Secretary of War, Secretary of the Navy, Attorney General, and Postmaster General.	6
Polk, 1845.	None.
Taylor, 1849.	None.
Fillmore, 1850.	None.
Pierce, 1853.	None.
Buchanan, 1857.	None.
Lincoln, 1861.	None.
Lincoln, 1865, Secretary of State, Secretary of War, Secretary of the Navy, Secretary of the Interior, Attorney General, and Postmaster General.	6
Johnson, 1865, Secretary of State, Secretary of the Treasury, Secretary of War, Secretary of the Navy, Secretary of the Interior, Attorney General, and Postmaster General.	7
Grant, 1869.	None.
Grant, 1873.	None.
Hayes, 1877.	None.
Garfield, 1881.	None.
Arthur, 1881, Secretary of War, Secretary of the Navy, and Secretary of the Interior.	3
Cleveland, 1885.	None.
Harrison, 1889.	None.
Cleveland, 1893.	None.
McKinley, 1897.	None.
McKinley, 1901.	None.
Roosevelt, 1901, Secretary of State, Secretary of the Treasury, Secretary of War, Secretary of the Navy, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, and Postmaster General.	8
Roosevelt, 1905.	None.
Taft, 1909.	None.
Wilson, 1913.	None.
Wilson, 1917, Secretary of State, Secretary of War, Secretary of the Treasury, Secretary of the Navy, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, and Attorney General.	9
Harding, 1921.	None.
Coolidge, 1923, Secretary of State, Secretary of War, Secretary of the Treasury, Secretary of the Navy, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, Attorney General, and Postmaster General.	10
Coolidge, 1925, Secretary of the Treasury, Secretary of War, Secretary of the Navy, Secretary of the Interior, Secretary of Commerce, and Secretary of Labor.	6
Hoover, 1929, Secretary of the Treasury and Secretary of Labor.	2
Total.	110

NOTE.—Table does not include instances where officers held over for only a few weeks or less.

IS SECRETARY MELLON LEGALLY QUALIFIED TO HOLD THE OFFICE OF SECRETARY OF THE TREASURY?

The second question asked by the Senate resolution relates to the qualifications of Secretary Mellon to hold the office of Secretary of the Treasury. This question, it is obvious on its face, is a mixed question of fact and law.

To ascertain the facts the committee accepted without question the statements made by Secretary Mellon in a letter which he addressed to Senator DAVID A. REED, and which was by him read to the committee. Other statements made by Senator REED before the committee supplementing the letter were likewise accepted by the committee as a true outline of the facts so far as they are necessary to construe the law. These facts, so far as they apply to the inhibitions contained in section 243 of title 5 of the Code of Laws are, in substance, as follows:

AGREED STATE OF FACTS

Prior to taking the office of Secretary of the Treasury, in March, 1921, Mr. Mellon resigned every office which he then held in any corporation engaged in the business of trade or commerce, and resigned all his directorates in such corporations, and he has not been since that time, and is not now, a director or officer in any such corporation. He did not, however, dispose of his stock in such corporations and is still the owner of stock in many corporations engaged in the business of trade or commerce.

Mr. Mellon likewise not only resigned every office he held in any national bank, trust company, or other banking institution, but he sold all the shares of stock which he owned in such banking institutions.

At the time Mr. Mellon took the office of Secretary of the Treasury he owned, and still owns a substantial amount of stock in the Gulf Oil Corporation of Pennsylvania, the Aluminum Co. of America, the Standard Steel Car Co., and various other business corporations, all of which are engaged in the business of trade or commerce. He does not own a controlling interest in the stock of any of these corporations. The stock which he does own, in connection with the stock owned by members of his family and close business associates, does, however, in many cases, constitute a majority of the stock of the corporation, and, in some instances (including some of the corporations above mentioned), constitutes ownership of practically the entire outstanding capital stock.

Since Mr. Mellon has been Secretary of the Treasury he has not controlled or directed the business operations of any of these corporations and has not taken part in the adjudication or settlement of any Federal taxes assessed against such corporations.

It is conceded that Mr. Mellon has not purchased by himself, or another in trust for him, any public lands or other public property; that he has not been concerned and is not now concerned in the purchase or disposal of any public securities of any State or of the United States; and that he has not at any time taken or applied to his own use any emoluments or gain for negotiating or transacting any business in the Treasury Department.

THE LEGAL QUESTION INVOLVED

The statute cited in the Senate resolution, in so far as it applies to the question now under discussion, reads as follows:

"No person appointed to the office of the Secretary of the Treasury * * * shall directly or indirectly be concerned or interested in carrying on the business of trade or commerce, or be the owner in whole or in part of any sea vessel * * *."

Under these admitted facts, the questions presented to the committee are: (1) Is ownership of a substantial amount of stock by the Secretary of the Treasury, in a corporation engaged in carrying on the business of trade or commerce, a violation of the statute? (2) Is the ownership of a substantial amount of stock by the Secretary of the Treasury in a corporation owning a sea vessel a violation of the statute? Both of these questions must be answered in the affirmative.

The first question might be simplified by asking: Is a person owning stock in a corporation even indirectly concerned or interested in the business of such corporation? In this simplified form the question answers itself.

To deny that the owner of stock in a corporation is interested in the business of such corporation is a violation of all logic and reason; and to assert that the owner of such stock is not even indirectly "concerned or interested" in the business of the corporation must impress the minds of honest people as being ridiculous. When we add to this the proposition that the ownership of stock in a corporation is substantial and that in connection with the stock owned by relatives and close business associates it constitutes a controlling interest in the corporation, and in some cases constitutes the ownership of practically all the outstanding stock of the corporation, we have reached a point where no reasonable mind, by any possibility, can conceive that the owner of such stock is not only indirectly, but directly and positively, interested in the business of the corporation. By no legal or judicial legerdemain or method of reasoning can any conclusion be reached in such a case, except that the owner of such stock must be, and necessarily is, interested in the business of the corporation. There is positively no way for such person to avoid such interest or to disassociate his interest from such corporation except, in good faith, to dispose of his stock therein.

It is common knowledge that the Gulf Oil Corporation of Pennsylvania, the Aluminum Co. of America, and the Standard Steel Car Co. are among the largest business corporations of the United States. Their business operations annually run into the millions. A person who owns

a "substantial" amount of the stock of these corporations and who, in connection with members of his family and close business associates, can ordinarily control the operations of such corporations, is not only interested but has it in his power to affect and control some of the most important business operations of the world. To say that such a person is not interested in the business operations of any of these corporations is to offend the reasoning process of all logical minds.

Several years ago when the law provided that the amount of income taxes paid by any citizen should be public, it became known that the income tax paid by Mr. Mellon exceeded \$1,000,000. From the agreed state of facts he must have a vast fortune tied up in stock ownership of some of the greatest business corporations in the country and his income to a large extent, if not entirely, must come from his ownership of stock in these corporations. Can it be asserted with any reason or logic that he is not interested in the business which they transact? Can it be honestly claimed that he is not even "indirectly interested" or that he is not even "indirectly concerned"? These questions are too simple and the answers are too self-evident to admit of discussion or doubt.

GULF OIL CORPORATION OF PENNSYLVANIA

The Gulf Oil Corporation, referred to above, and which, it is admitted, Mr. Mellon and members of his family and close business associates, completely dominate and control, is one of the largest, if not the largest, corporation of its kind in the world. We give the following information from Moody's Manual for 1927:

"Through its subsidiaries which it owns it operates thousands of oil wells producing several hundred thousands of barrels of crude oil per day. It owns several thousand miles of pipe lines and large refineries in different parts of the world. It owns and operates ocean-going steamers, barges, and tugs, together with harbor barges, etc. It has bulk-distributing stations located on Gulf of Mexico and Atlantic seaboard, including Galveston, New Orleans, Mobile, Tampa, Jacksonville, Savannah, Charleston, Bayonne, Philadelphia, New York, Providence, and Beverly. From these points oil is marketed through over 1,500 sales stations. Net production in 1926, after deducting all royalties and working interests, was over 44,000,000 barrels of crude oil. Deliveries in 1926 were 46,900,000 barrels. Some of these subsidiaries are as follows:

"Eastern Gulf Oil Co.: Properties located in Kentucky. Capital stock, \$50,000.

"Gulf Pipe Line Co.: Located in Texas. Capital stock, \$3,500,000.

"Gulf Pipe Line Co. of Oklahoma: Capital stock, \$1,000,000.

"Gulf Production Co.: Producers of petroleum. Owns leases on thousands of acres in Texas. Capital stock, \$2,250,000.

"Gulf Refining Co.: Transports and sells petroleum and by-products. Refineries located at Port Arthur, Fort Worth, Tex., and Bayonne, N. J.; total capacity, 150,000 barrels daily. Capital stock, \$15,000,000.

"Gulf Refining Co. of Louisiana: Sells petroleum products. Capital stock, \$1,000,000.

"Gypsy Oil Co.: Properties located in Oklahoma and Kansas. Capital stock, \$500,000.

"Mexican Gulf Oil Co.: Incorporated in Delaware to prospect for and produce petroleum in Mexico. Capital stock, \$200,000.

"South American Gulf Oil Co.: Incorporated in Delaware; engaged in exploration and development work in South America. Capital stock, \$25,000.

"Venezuela Gulf Oil Co.: Incorporated in Delaware to produce oil in Venezuela and other South American countries. Capital stock, \$50,000."

These are only a portion of the subsidiaries owned by this great corporation. A full list, with more detailed information, can be found in Moody's Manual of Investments for 1927.

It should be added that through these subsidiaries this corporation has often done business with the Government of the United States and is a bidder upon contracts let by the Government for supplies in which these various subsidiaries deal.

THE OWNER, IN WHOLE OR IN PART, OF A SEA VESSEL, IS DISQUALIFIED FROM HOLDING THE OFFICE OF SECRETARY OF THE TREASURY

The statute we are construing says that "no person appointed to the office of Secretary of the Treasury * * * shall * * * be owner in whole or in part of any sea vessel * * *."

The corporation above named, according to Moody's Manual, an accepted authority, owns "25 ocean-going steamers, 7 barges, 6 tugs, and 2 motor ships, together with harbor barges, etc."

There is no opportunity here to quibble over the meaning of "business" or "carrying on business" or being directly or indirectly concerned or interested in "carrying on the business of trade or commerce." The statute specifically states that anyone owning, in whole or in part, a sea vessel, shall be disqualified from holding the office of Secretary of the Treasury. This is independent of "business" or of "carrying on business." The thing which the statute interdicts is the ownership, in whole or in part, of a sea vessel.

Regardless of any construction which, by any method of reasoning, is put upon the other portion of the statute, it must be admitted that the statute disqualifies any person from holding the office of Secretary of the Treasury who is the owner of a sea vessel.

It certainly will not be contended that "ocean-going steamers" are not sea vessels. On the other hand, it seems plain that the object of Congress in the early days in prohibiting the ownership of a sea vessel applies with equal force to the present day, and with increasing force when applied to a man of Secretary Mellon's national and international business connections.

It seems clear that either Mr. Mellon must be held to be disqualified or we must close our eyes to the plain provision of a definite statute. Neither can it be claimed that the law does not apply to him because these vessels are owned by a corporation in which he is a substantial stockholder. It might be argued that he does not himself personally own the entire interest of these ocean-going vessels, but it must be admitted that to the extent of his stock ownership in the corporation he is at least a part owner, and the statute interdicts the ownership in part as well as the entire ownership.

ALUMINUM CO. OF AMERICA

The Aluminum Co. of America is the largest corporation of its kind in the world. Its primary business is the smelting of aluminum from its ore. This business is carried on at Niagara Falls and Massena, N. Y.; Alcoa, Tenn.; Badin, N. C.; Shawinigan Falls and Arvida, Province of Quebec; and in Norway. For the purpose of its business the company utilizes more than 500,000 horsepower. Hydroelectric plants for the development of electric power are either owned by the company or are controlled under long-term leases. In addition, the company owns several undeveloped water powers which, when developed, will more than double its present supply of power. The company also does an extensive fabricating business, producing aluminum sheets, rod, wire, tubes, castings, and other similar forms. Mills are located at Alcoa, Tenn.; New Kensington, Pa.; Edgewater and Garwood, N. J.; Buffalo, Niagara Falls, and Massena, N. Y.; Cleveland, Ohio; Detroit, Mich.; Fairfield, Conn.; Toronto, Ontario; and Shawinigan Falls, Province of Quebec. The company owns its own bauxite mines in Arkansas, South America, and several European countries and has its plant for the preliminary refining of bauxite at East St. Louis, Ill. The corporation not only does business direct, but it owns a large number of subsidiaries. Among them may be mentioned the following: St. Lawrence Water Co., Demerara Bauxite Co., United States Aluminum Co., St. Lawrence River Power Co.

This corporation also owns the Aluminum Co. of Canada and has leased property of the Aluminum Manufacturers (Inc.) for 25 years from July 1, 1922. In addition, the Aluminum Co. of America owns the entire capital stock of the Alton & Southern Railway Co.

Further detailed information can be obtained from an examination of Moody's Manual, 1927, from which the above data is quoted.

It is common knowledge that the Aluminum Co. of America deals principally in products which are highly protected by the tariff. Mr. Mellon, as Secretary of the Treasury, controls the administration of the tariff laws, and in their administration he is dealing with his own corporation, in which he has a substantial interest, and in which, as a stockholder, he, together with his close associates, has a dominating control.

STANDARD STEEL CAR CO.

The Standard Steel Car Co., incorporated under the laws of Pennsylvania, manufactures steel and composite (steel and wood) cars. It has plants located at Butler, Middletown, and New Castle, Pa.; Hammond, Ind.; and Baltimore, Md. This corporation controls the Middletown Car Co. and the Baltimore Car & Foundry Co. In 1925 it purchased the Siems-Stempel Co., covering 25 acres in St. Paul and Minneapolis, Minn. In 1926 it obtained an interest in the Columbia Steel Co. at Elyra, Ohio. It owns the Forged Steel Wheel Co. at Butler, Pa. It has an authorized capital stock of \$50,000,000.

These are only samples of Mr. Mellon's stock ownership in various kinds of corporations, all actively engaged in trade and commerce. Their operations cover nearly the entire civilized world. He and his associates, under the admitted facts, are interested in and control some of the most gigantic financial operations in the world. They are interested directly in the tariff, in the levying and collection of Federal taxes, in the shipping of products upon the high seas. Most of the products of these corporations are protected by our tariff laws, and Mr. Mellon has direct charge of the enforcement of these laws.

It is not necessary that it be shown that he has taken advantage of his position to give preference to these corporations in which he has a direct interest. The law does not state that before its inhibitions apply the Secretary of the Treasury must be found guilty of malfeasance in office in the way of giving invaluable favor to corporations in which he has a direct interest. It is sufficient under this statute to disqualify Mr. Mellon that it appear that he is either directly or indirectly interested in the business of trade or commerce. It would perhaps be impossible to find in the United States a single citizen who has a greater interest in the business of trade or commerce. In the financial world Mr. Mellon has perhaps more at stake in the carrying on of trade or commerce than any other one citizen of the United States. He is not only "interested" but, under the admitted facts, he is one of the dominating and controlling influences in the business world.

A stockholder of a corporation shares in the profits of the corporation. He suffers financially when the operations of the corporation are unprofitable. Upon dissolution of the corporation he has a right to share in the assets. All of these things conclusively imply that he is necessarily interested in the business of the corporation. If the corporation engaged in business is successful, he makes a profit. If its business operations are failures, he suffers a loss. The property which it acquires in its business operations, upon dissolution of the corporation, belongs to the stockholder, and this property is great or small in proportion to the success or failure of the corporation in its business transactions. He is interested not only indirectly but directly in every transaction of the corporation. He can not disassociate himself from such interest except to part title with the ownership of his stock. These propositions, without exception, have been upheld and reasserted time and again by judicial determination. (*Gibbons v. Mahon* (1890), 136 U. S. 590; *Eisner v. Macomber* (1920), 252 U. S. 189; *R. I. Trust Co. v. Doughton* (1926), 270 U. S. 69; *Collector v. Hubbard* (1871), 12 Wall. 1; *Lynch v. Thurrish* (1918), 247 U. S. 221.)

A STOCKHOLDER'S INTEREST IN A CORPORATION IS AN INSURABLE INTEREST

It has been held that a stockholder's interest in corporate property is an insurable interest, not based on legal title, but on the right to gains or profits, etc. (*Seaman v. Enterprise Fire & Marine Insurance Co.*, 21 Fed. 778, 784; *Warren v. Davenport Insurance Co.* (1871), 31 Iowa, 464.)

In the case of *Seaman v. Enterprise Fire & Marine Insurance Co.*, above cited, it is stated in the syllabus as follows:

"An owner of stock in a corporation has an insurable interest in the corporate property in proportion to the amount of his stock."

In the other case cited (*Warren v. Davenport Insurance Co.*, 31 Iowa, 464), where the question was distinctly presented, the Supreme Court of Iowa affirmed that a stockholder did have an insurable interest.

A STOCKHOLDER IN A CORPORATION IS DISQUALIFIED TO ACT AS JUDGE

Stockholders have a direct interest in the business of the corporation, and such interest, it has been held, disqualifies a stockholder to act as a judge or juror in a suit in which such corporation is interested. (*In re Honolulu Consolidated Oil Co.*, C. C. A. 9th cir. 1917, 243 Fed. 348.)

The syllabus of this case, in so far as it applies to this question, reads as follows:

"* * * a judge owning stock in one of such oil companies is disqualified to sit on the trial of such a suit against another of such oil companies, under Judicial Code (act March 3, 1911, c. 231), providing that, whenever it appears that the judge of any district court is in any way concerned in interest in any suit pending therein, it shall be his duty to enter the fact on the records and certify an authenticated copy thereof to the senior judge for the circuit."

As applying to the disqualifications of the judge on account of being a stockholder in a corporation involved in litigation before such judge, we cite the following: *State v. Mach* (1902), 26 Nev. 430; *First National Bank v. McGuire* (1899), 12 S. D. 226; *Queens-Nassau Mortgage Co. v. Graham* (1913), 142 N. Y. Supp. 589; *Anderson v. Commonwealth* (Ky. 1909), 117 S. W. 364; *Adams v. Minor* (1898), 121 Cal. 372; *King v. Thompson* (1877), 59 Ga. 380.

In the case of *Queens-Nassau Mortgage Co. v. Graham*, above cited, it was held by the Supreme Court of Iowa that where a judge is a stockholder in a corporation, he is interested in any case in which the corporation is a party, and even the consent of the parties to the action can not qualify him to sit in such a case.

A STOCKHOLDER IN A CORPORATION IS DISQUALIFIED TO ACT AS JUROR

A person called as a juror is disqualified from acting as such in a case where he is a stockholder in the corporation which is a party involved in the litigation. (*Martin v. Farmers Mutual Fire Ins. Co.* (1905), 139 Mich. 148; *Peninsular Ry. Co. v. Howard* (1870), 20 Mich. 18; *Sovereign Camp W. O. W. v. Ward* (1916), 196 Ala. 327.)

In the case of *Martin v. Farmers Mutual Fire Insurance Co.*, the Supreme Court of Michigan distinctly held that in an action against a mutual fire-insurance company, the members thereof are interested and are incompetent to sit as jurors in any case in which a mutual insurance company is a party, and this is true even where the jurors upon oath declared that they "were free from bias and prejudice." In this case the court, in the opinion, said:

"The disqualification of a judge or juror to sit in a case is a question of vital interest to more than the parties to a suit. It involves the administration of justice before disinterested, unprejudiced, and impartial tribunals."

CONTRACT OF CORPORATION WITH MUNICIPALITY IS VOID IF MAYOR OR MEMBERS OF CITY COUNCIL ARE STOCKHOLDERS

Most States have statutes which prohibit officers of any municipality from being interested in contracts with such municipality. Under such statutes it is universally held that where the mayor or members of the city council are stockholders in a corporation, such interest is sufficient to invalidate any contract between the municipality and the corporation. It is universally held that stock ownership in a corporation

getting a contract from a municipality by a member of the council falls under the condemnation of such a statute. (II, Dillon on Municipal Corps. (5th Ed.), sec. 773, p. 1147; III, McQuillan on Municipal Corp., sec. 1354; San Diego v. San Diego, 44 Cal. 106; Noble v. Davidson, 177 Ind. 19; 28 Cyc. 653; 44 Corpus Juris, 93.)

In *Noble v. Davidson* (177 Ind. 19), above cited, the court canvasses at length the principle involved and gives its reasons for holding that such "interest" invalidates the contract.

A STOCKHOLDER IN THE CORPORATION IS DISQUALIFIED AS A WITNESS

Where the statute makes a witness incompetent if he is interested in the result of the suit, the court held that a stockholder of a corporation is an incompetent witness where the corporation is interested as a party to the case. In the case of *Dickenson v. Columbus State Bank* (Nebr. 1904, 98 N. W. 813) the Supreme Court of Nebraska, in passing upon this question, said:

"Plaintiff objected to the evidence of defendant's president, Gerrard, as to transactions had with the deceased, Murdock, as being excluded by section 329, Code Civ. Proc. It was testimony of an interested party as to transactions with a deceased person against an assignee of the deceased. Unless testimony as to such transactions had been introduced by the other side, it was inadmissible. There seems no doubt that Mr. Gerrard's interest as a stockholder of the bank is a 'direct legal interest,' and disqualified him under the terms of the statute."

To the same effect is the decision in *Tecumseh National Bank v. McGee* (61 Nebr. 709; 85 N. W. 949).

It is also quite generally held that a stockholder of a corporation has such an "interest" that he can not take the acknowledgment of a conveyance to such corporation. (*Southern Iron & E. Co. v. Voyles*, 41 L. R. A. (N. S.) 375. See also notes there cited.)

STOCKHOLDER'S INTEREST SUFFICIENT TO MAKE HIM LIABLE FOR TAXES

Under section 3251 of the Revised Statutes, persons interested in the use of a distillery were held liable for taxes on it. This section says: "Every person in any manner interested in the use of any still, distillery, or distilling apparatus shall be jointly and severally liable for the taxes imposed by law on the distilled spirits produced therefrom."

It was held by the Solicitor General of the United States (April 23, 1876) that under this statute a stockholder in a distilling corporation not otherwise liable for the debts of the corporation beyond the amount of his stock therein, was liable individually for such taxes and that his individual property in no way connected with the business of such corporation could be seized and restrained for taxes due on spirits produced by the corporation.

In the case of *United States v. Wolters et al.* (C. C. S. D. Cal. 1891, 46 Fed. 509), it was held that stockholders of a corporation engaged in operating a distillery are liable for taxes under the statute which declares, "and every person in any manner interested in the use of" a distillery, shall be jointly and severally liable for the taxes imposed by law on the distilled spirits produced therefrom. In this case the court said:

"The holder of stock in a corporation organized for and engaged in the business of distilling spirits, if not the proprietor or possessor of the distillery within the meaning of the statute, is certainly 'interested in the use of' the distillery operated by the corporation of which he is a stockholder. He has a direct, pecuniary interest in the business of distilling—the purpose for which the distillery is used—as well as in the property itself. The amount of such interest, whether large or small, is of no consequence. The statute declares that every person so interested shall be jointly and severally liable for the taxes imposed by law on the distilled spirits produced therefrom."

See, also, to the same effect: *Richter v. Henningson* (1895), 110 Cal. 530; 15 Op. A. G. 559; 16 Op. A. G. 10.

INTEREST OF STOCKHOLDER ENTITLES HIM TO BRING SUIT

The interest of stockholders has been recognized in their right to bring suit on behalf of the corporation when the proper officers neglect a duty to enforce its rights, and to bring suit to restrain ultra vires acts. (*Kelly v. Dolan* (D. C. E. D. Pa. 1914), 218 Fed. 966; *Leo v. U. P. Ry. Co.* (C. C. S. D. N. Y. 1884), 17 Fed. 273; *Siegmán v. Electric Vehicle Co.* (C. C. D. N. J. 1905), 140 Fed. 117.)

There was submitted, on behalf of the contention of Mr. Mellon, a brief written by Messrs. Faust and Wilson, attorneys, which was printed in the CONGRESSIONAL RECORD of March 31, 1924 (p. 5246), and also an opinion by Hon. William D. Mitchell, the present Attorney General of the United States. The opinion of the Attorney General was prepared at the request of the President of the United States. The writers of these briefs have reached the conclusion that under the statute heretofore quoted and the agreed state of facts above set forth, Mr. Mellon is not disqualified from holding the office of Secretary of the Treasury. The Attorney General, in reaching his conclusion, as did also Messrs. Faust and Wilson, placed great stress upon the case *In re Deuel* (127 App. Div. 640), to the effect that the ownership of stock in a corporation does not constitute carrying on the business of the corporation.

These eminent attorneys are led into a false theory which has no application whatever to the case of Secretary Mellon. No one claims that Mr. Mellon is carrying on any trade or business. It is frankly admitted that he is not engaged in business and is not carrying on business. There is a vast difference—one that is clearly defined by the courts—between carrying on business or being engaged in business and having an interest in any trade or business.

A person is engaged in business and is carrying on business when he has something to do with the management of the same; but he may be interested in any trade or business and be interested or concerned in the carrying on of such trade or business, without having anything to do in the way of management or direction of the business. In fact, the person who is not managing a trade or business may be much more directly "interested or concerned" in the business than the one who is actually at the head of the concern, directing it. This is particularly true in the case of corporations. The stockholders, after all, are the ones who are most directly and vitally interested in the business of the corporation and in the way and manner in which it is carried on. The manager or director may have no interest except in the position which he holds, while the stockholder may have the savings of a lifetime invested in the corporation and may, in fact, be much more concerned and more deeply interested than the hired man who manages the business.

In the case last cited the New York court was construing a statute which provided that no justice should carry on any business, and an attempt was made to disqualify Judge Deuel from holding office on the ground that he was carrying on a business. It was admitted on the trial that the judge was a stockholder in a corporation and that he was vice president of such corporation, but, in the syllabus of the case the court says that, as such vice president, he was not charged with any specific duties, was not actively engaged in the conduct of the business, was not responsible to the corporation or its stockholders for the conduct or the management of the business, and was not actively interfering in any way in relation to it, and, therefore, he had not violated the statute which forbade a justice to carry on any business.

The statute relating to the duty of the justice provided, among other things:

"nor shall any such justice hold any other public office, or carry on any business * * * but each such justice shall devote his whole time and capacity, so far as the public interests demand, to the duties of his office."

The object of the law seems to have been to require the justice to devote his time and abilities to his official duties and in order to do this it was provided that he should not carry on any other business.

In the body of the opinion the court said:

"It would serve no useful purpose to analyze this voluminous testimony and I shall attempt to do no more than to state the conclusion at which I have arrived. I do not find it proved that this relator accepted any office in this corporation that imposed upon him any active duties in relation to the corporation itself or the business that it conducted. He was vice president of the corporation, but charged with no specific duties in relation to it. There is no evidence that he actively engaged in the conduct of the business of the corporation; that he was responsible, either to the corporation or to its stockholders, for the conduct or management of the business, or that he actively interfered in any way in relation to it. In fact, the evidence is all the other way. Certainly if no one did anything more for this business than the respondent did, or was under obligation to do, the business would not have been carried on at all, and the conclusion that I have arrived at is that the charge of a violation of section 1416 of the charter is not sustained."

It should be noted in passing that in this case there was nothing pending before the judge in the way of litigation in which the corporation, of which he was a stockholder, was a party.

If this corporation in which he was a stockholder had been a party to a suit pending before him, and the court had held that such "interest" did not disqualify the judge from sitting, then there would be some reason for citing the case in support of the contention that Mr. Mellon's ownership of stock does not in any way constitute an interest; but, from the admitted facts of the case, it is perfectly plain that it has no application whatever to the question pending before the Committee on the Judiciary.

The Attorney General, in his opinion, also relies upon the case *In re Levy* (198 App. Div. 326) as sustaining his contention. A careful examination of this case will convince anyone that it has no application to the case of Secretary Mellon. The court decided in that case, as it did in the *Deuel* case, that the ownership of stock in a corporation did not constitute an offense upon the part of the judge such as would make him liable to removal from office. This decision was a construction of the same statute as was passed on in the *Deuel* case, and the court only held that the ownership of stock in a corporation, where the owner of the stock had nothing whatever to do with the management of the corporation, was not an officer or manager in any way, and was not "engaged in any other business or profession," did not offend the statute.

This case and the other case cited by the Attorney General in his opinion on this branch of the subject only demonstrates that the Attorney General and Messrs. Faust and Wilson have devoted considerable of their time and their great abilities in an attempt to show that the ownership of stock in a corporation is not, in and of itself, the carrying on of a business or profession—a proposition, as stated before, about which there is no contention and which has no bearing upon the question involved in the case before the committee as to whether the owner of stock in a corporation is "interested" in the business of the corporation.

The cases cited in these briefs, with the one apparent exception hereinafter noted, are all based on the imaginary claim that it is sought to disqualify Secretary Mellon because he is "engaged in business" or is "carrying on a business." They have no bearing upon the question of being "interested" in a business, and, therefore, they have no application or bearing upon the question submitted by the Senate to its Judiciary Committee. The question of whether the ownership of stock in a corporation constitutes the carrying on of business is not necessarily involved in the matter before us.

The exception above referred to is the case of *United States v. Delaware & Hudson Co.* (213 U. S. 366). In this case the Supreme Court of the United States was called upon to place a construction upon the commodities clause of the Hepburn Act. There were several cases involved in this decision. They were all cases between the United States and various railroad companies. These defendants were all engaged in the mining of coal as well as in its transportation in interstate commerce. The clause in the Hepburn Act under consideration in these cases reads as follows:

"From and after May 1, 1908, it shall be unlawful for any railroad company to transport from any State, Territory, or the District of Columbia, to any other State, Territory, or the District of Columbia, or to any foreign country, any article or commodity, other than timber and the manufactured products thereof, manufactured, mined, or produced by it, or under its authority, or which it may own in whole or in part, or in which it may have any interest, direct or indirect, except such articles or commodities as may be necessary and intended for its use in the conduct of its business as a common carrier."

The constitutionality of the act was at issue. A careful reading of this very lengthy and laborious opinion will convince anyone that the court was extremely anxious not to declare the act null and void as being in contravention to the Constitution of the United States.

These railroads, it was conceded, had for many years been engaged in the mining of coal, as well as in its transportation. They had been encouraged to invest in coal mines and to go into the business by the State legislature. In accordance with the laws of the State and the constitution of the State they had been carrying on this business for many years and, if the court had given effect to the restrictive clause which would ordinarily be given by a careful student, it would have been compelled to nullify the laws of the State and would have necessarily confiscated many millions of dollars worth of property which the railroad companies had invested in accordance with their charters and in accordance with the constitution and laws of the State. In describing this condition that had arisen under State laws prior to the passage of the Hepburn Act, the court said:

"The general situation is that for half a century or more it has been the policy of the State of Pennsylvania, as evidenced by her legislative acts, to promote the development of her natural resources, especially as regards coal, by encouraging railroad companies and canal companies to invest their funds in coal lands, so that the product of her mines might be conveniently and profitably conveyed to market in Pennsylvania and other States. Two of the defendant corporations, as appears from their answers, were created by the Legislature of Pennsylvania, one of them three-quarters of a century ago and the other a half century ago, for the express purpose that its coal lands might be developed and that coal might be transported to the people of Pennsylvania and of other States. It is not questioned that pursuant to this general policy investments were made by all the defendant companies in coal lands and mines and in the stock of coal-producing companies, and that coal production was enormously increased and its economies promoted by the facilities of transportation thus brought about. As appears from the answers filed, the entire distribution of anthracite coal in and into the different States of the Union and Canada for the year 1905 (the last year for which there is authoritative statistics), was 61,410,201 tons; that approximately four-fifths of this entire production of anthracite coal was transported in interstate commerce over the defendant railroads, from Pennsylvania to markets in other States and Canada, and of this four-fifths, from 70 to 75 per cent was produced either directly by the defendant companies or through the agency of their subsidiary coal companies.

"It also appears from the answers filed that enormous sums of money have been expended by these defendants to enable them to mine and prepare their coal and to transport it to any point where there may be a market for it. It is not denied that the situation thus generally described is not a new one, created since the passage of the act in question, but has existed for a long period of years prior thereto, and that the rights and property interests acquired by the said defendants

in the premises have been acquired in conformity to the constitution and laws of the State of Pennsylvania, and that their right to enjoyment of the same has never been doubted or questioned by the courts or people of that Commonwealth, but has been fully recognized and protected by both."

In discussing the constitutional questions presented to the court, the Chief Justice, in writing the opinion, used the following language:

"With these concessions in mind, and despite their far-reaching effect, if the contentions of the Government as to the meaning of the commodities clause be well founded, at least a majority of the court are of the opinion that we may not avoid determining the following grave constitutional questions: 1. Whether the power of Congress to regulate commerce embraces the authority to control or prohibit the mining, manufacturing, production, or ownership of an article or commodity, not because of some inherent quality of the commodity, but simply because it may become the subject of interstate commerce. 2. If the right to regulate commerce does not thus extend, can it be impliedly made to embrace subjects which it does not control, by forbidding a railroad company engaged in interstate commerce from carrying lawful articles or commodities because, at some time prior to the transportation, it had manufactured, mined, produced, or owned them, etc.? And involved in the determination of the foregoing questions we shall necessarily be called upon to decide: (a) Did the adoption of the Constitution and the grant of power to Congress to regulate commerce have the effect of depriving the States of the authority to endow a carrier with the attribute of producing as well as transporting particular commodities, a power which the States from the beginning have freely exercised, and by the exertion of which governmental power the resources of the several States have been developed, their enterprises fostered, and vast investments of capital have been made possible? (b) Although the Government of the United States, both within its spheres of national and local legislative power, has in the past for public purposes, either expressly or impliedly, authorized the manufacture, mining, production, and carriage of commodities by one and the same railway corporation, was the exertion of such power beyond the scope of the authority of Congress, or, what is equivalent thereto, was its exercise but a mere license, subject at any time to be revoked and completely destroyed by means of a regulation of commerce?"

In discussing the duty of the court, when presented with such question, the following language was used:

"It is elementary when the constitutionality of a statute is assailed, if the statute be reasonably susceptible of two interpretations, by one of which it would be unconstitutional and by the other valid, it is our plain duty to adopt that construction which will save the statute from constitutional infirmity. (*Knights Templars Indemnity Co. v. Jarman*, 187 U. S. 197, 205.) And unless this rule be considered as meaning that our duty is to first decide that a statute is unconstitutional and then proceed to hold that such ruling was unnecessary because the statute is susceptible of a meaning which causes it not to be repugnant to the Constitution, the rule plainly must mean that where a statute is susceptible of two constructions, by one of which grave and doubtful constitutional questions arise and by the other of which such questions are avoided, our duty is to adopt the latter. (*Harriman v. Interstate Com. Comm.*, 211 U. S. 407.)"

The Chief Justice then refers to what he regards as inconsistent provisions in the commodities clause itself:

"Recurring to the text of the commodities clause, it is apparent that it disjunctively applies four generic prohibitions; that is, it forbids a railroad carrier from transporting in interstate commerce articles or commodities, 1, which it has manufactured, mined, or produced; 2, which have been so mined, manufactured, or produced under its authority; 3, which it owns in whole or in part; and 4, in which it has an interest, direct or indirect.

"It is clear that the two prohibitions which relate to manufacturing, mining, etc., and the ownership resulting therefrom, are, if literally construed, not confined to the time when a carrier transports the commodities with which the prohibitions are concerned, and hence the prohibitions attach and operate upon the right to transport the commodity because of the antecedent acts of manufacture, mining, or production. Certain also is it that the two prohibitions concerning ownership, in whole or in part, and interest, direct or indirect, speak in the present and not in the past; that is, they refer to the time of the transportation of the commodities. These last prohibitions, therefore, differing from the first two, do not control the commodities if at the time of the transportation they are not owned in whole or in part by the transporting carrier, or if it then has no interest, direct or indirect, in them. From this it follows that the construction which the Government places upon the clause as a whole is in direct conflict with the literal meaning of the prohibitions as to ownership and interest, direct or indirect. If the first two classes of prohibitions as to manufacturing, mining, or production be given their literal meaning, and therefore be held to prohibit, irrespective of the relation of the carrier to the commodity at the time of transportation, and a literal interpretation be applied to the remaining prohibitions as to ownership and interest, thus causing them only to apply if such ownership and interest exist at the time of trans-

portation, the result would be to give to the statute a self-annihilative meaning. This is the case since in practical execution it would come to pass that where a carrier had manufactured, mined, and produced commodities, and had sold them in good faith, it could not transport them; but, on the other hand, if the carrier had owned commodities and sold them it could carry them without violating the law. The consequence, therefore, would be that the statute, because of an immaterial distinction between the sources from which ownership arose, would prohibit transportation in one case and would permit it in another like case. An illustration will make this deduction quite clear: A carrier mines and produces and owns coal as a result thereof. It sells the coal to A. The carrier is impotent to move it for account of A in interstate commerce because of the prohibition of the statute. The same carrier at the same time becomes a dealer in coal and buys and sells the coal thus bought to the same person, A. This coal the carrier would be competent to carry in interstate commerce. And this illustration not only serves to show the incongruity and conflict which would result from the statute if the rule of literal interpretation be applied to all its provisions, but also serves to point out that as thus construed it would lead to the conclusion that it was the intention, in the enactment of the statute, to prohibit manufacturing and production by a carrier and at the same time to offer an incentive to a carrier to become the buyer and seller of commodities which it transported."

Further on in the opinion the court said:

"Looking at the statute from another point of view the same result is compelled. Certain it is that we could not construe the statute literally without bringing about the irreconcilable conflict between its provisions which we had previously pointed out, and therefore some rule of construction is essential to be adopted in order that the statute may have a harmonious operation. Under these circumstances, in view of the far-reaching effect to arise from giving to the first two prohibitions a meaning wholly antagonistic to the remaining ones, we think our duty requires that we should treat the prohibitions as having a common purpose; that is, the dissociation of railroad companies prior to transportation from articles or commodities, whether the association resulted from manufacture, mining, production, or ownership, or interest, direct or indirect. In other words, in view of the ambiguity and confusion in the statute we think the duty of interpreting should not be so exerted as to cause one portion of the statute which, as conceded by the Government, is radical and far-reaching in its operation if literally construed, to extend and enlarge another portion of the statute which seems reasonable and free from doubt if also literally interpreted. Rather it seems to us our duty is to restrain the wider, and, as we think, doubtful prohibitions so as to make them accord with the narrow and more reasonable provisions, and thus harmonize the statute."

When the court came to a discussion of the words "in which it is interested directly or indirectly," included in the commodities clause, it examined the proceedings had in Congress when the Hepburn Act was under consideration. It must be remembered that the cases which the court was deciding involved the construction of a statute which prohibited the common carrier, among other things, from transporting, in interstate commerce, commodities "in which it may have any interest direct or indirect." The railroad company was transporting coal owned by a separate corporation in which the railroad company owned stock, and the question was whether this ownership constituted such an interest in the commodity as to prohibit the railroad company from transporting it in interstate commerce.

In an examination of the CONGRESSIONAL RECORD it was found that in the Senate, where the commodities clause originated, an amendment in specific terms stating that stock ownership should be held to be such prohibitory interest was defeated, and that another amendment expressly declaring that interest, direct or indirect, was intended, among other things, to embrace the prohibition of carrying a commodity owned by a corporation in which the railroad company was interested as a stockholder was offered and was likewise defeated.

The court, therefore, reached the conclusion that the very point was directly pending before the Senate of the United States and that the Senate, as a lawmaking body, had expressed itself on the record to the effect that the ownership of stock in such a corporation by the railroad should not be a prohibitive interest. On this point the court said:

"Certain it is, however, that in the legislative progress of the clause in the Senate, where the clause originated, an amendment in specific terms causing the clause to embrace stock ownership was rejected, and immediately upon such rejection an amendment expressly declaring that interest, direct or indirect, was intended, among other things, to embrace the prohibition of carrying a commodity manufactured, mined, produced, or owned by a corporation in which a railroad company was interested as a stockholder was also rejected (1906, 40 CONGRESSIONAL RECORD, pt. 7, pp. 7012-7014). And the considerations just stated, we think, completely dispose of the contention that stock ownership must have been in the mind of Congress and therefore must be treated as though embraced within the evil intended to be remedied, since it can not in reason be assumed that there is a duty to extend the meaning of a statute beyond its legal sense upon the theory that a provision

which was expressly excluded was intended to be included. If it be that the mind of Congress was fixed on the transportation by a carrier of any commodity produced by a corporation in which the carrier held stock, then we think the failure to provide for such a contingency in express language gives rise to the implication that it was not the purpose to include it. At all events, in view of the far-reaching consequences of giving the statute such a construction as that contended for, as indicated by the statement taken from the answers and returns which we have previously inserted in the margin, and of the questions of constitutional power which would arise if that construction was adopted, we hold the contention of the Government not well founded."

It seems perfectly plain, not only from a reading of the entire opinion but from the direct statement of the court in the quotation last above cited, that the conclusion was reached that the Senate, the lawmaking body, had placed its own construction upon this language and that it explicitly stated by its negative action on the proposed amendments that it was not the intention of the lawmaking body to permit the ownership of stock by a railroad company in a corporation owning the commodity to exclude the railroad company from carrying such commodity in interstate commerce.

DISSENTING OPINION OF JUSTICE HARLAN

It is important also to note that Justice Harlan, whose opinions and even dissenting opinions have not only commanded universal respect but have given encouragement to many struggling hearts in their hope for the perpetuity of democratic government, did not agree with the court in the conclusions reached.

The opinion of the court from which we have been quoting covers more than 50 pages. Justice Harlan, in a dissenting opinion of less than a page, has gone to the very heart of the question involved and plainly and logically stated the reasons which controlled him in the conclusion which he reached. We quote his opinion in full:

"As these cases have been determined wholly on the construction of those parts of the Hepburn Act which are here in question, and as Congress, if it sees fit, may meet that construction by additional legislation, I deem it unnecessary to enter upon an extended discussion of the various questions arising upon the record, and will content myself simply with an expression of my nonconcurrence in the view taken by the court as to the meaning and scope of certain provisions of the act. In my judgment the act, reasonably and properly construed, according to its language, includes within its prohibitions a railroad company transporting coal, if at the time it is the owner, legally or equitably, of stock—certainly if it owns a majority or all of the stock—in the company which mined, manufactured, or produced, and then owns, the coal which is being transported by such railroad company. Any other view of the act will enable the transporting railroad company, by one device or another, to defeat altogether the purpose which Congress had in view, which was to divorce, in a real, substantial sense, production and transportation, and thereby to prevent the transporting company from doing injustice to other owners of coal."

We think it can be fairly stated that the opinion by the majority of the court in this case we have been considering was in effect modified by several subsequent decisions of the Supreme Court—at least, the dominating reason moving the court to hold that stock ownership in a corporation was not such an interest as to bring upon the railroad company the condemnation of the law is definitely explained in a subsequent opinion rendered by the court. In the case of *United States v. Delaware, Lackawanna & Western Railroad Co.* (238 U. S. 516), in the body of the opinion (pp. 526, 527), it is stated:

"But mere stock ownership by a railroad or by its stockholders in a producing company can not be used as a test by which to determine the legality of the transportation of such company's coal by the interstate carrier. For when the commodity clause was under discussion attention was called to the fact that there were a number of the anthracite roads which at that time owned stock in coal companies. An amendment was then offered which, if adopted, would have made it unlawful for any such road to transport coal belonging to such company. The amendment, however, was voted down, and in the light of that indication of congressional intent the commodity clause was construed to mean that it was not necessarily unlawful for a railroad company to transport coal belonging to a corporation in which the road held stock."

Further on in this opinion the court said:

"Taking it as a whole and bearing in mind the policy of the commodity clause to dissociate the railroad company from the transportation of property in which it is interested and that the Sherman Anti-trust Act prohibits contracts in restraint of trade, there would seem to be no doubt that this agreement violated both statutes."

"The railroad company, if it continues in the business of mining, must absolutely dissociate itself from the coal before the transportation begins. It can not retain the title, nor can it sell through an agent."

As before stated, in *United States v. Delaware & Hudson Co.*, a large number of railroads were involved, all of which were engaged in one way or another, either directly or indirectly, in the mining of coal and its transportation. Practically all of these cases came into the Supreme Court again after the decision in the *Delaware & Hudson* case, and in every case, so far as we are able to find, the court, while

not expressly reversing itself in the Delaware & Hudson case, always found a reason for declaring these combinations illegal. The United States v. Lehigh Valley Railroad Co. (1911) (220 U. S. 257), is one of these cases. Another one is the United States v. Reading Co. (253 U. S. 26).

In the Reading Co. case, one of the railroad companies owned eleven-twelfths of the capital stock of the coal company, and the court said that such conduct fell within the condemnation of the commodities clause of the Hepburn Act and it ordered that the relation thus existing between the railroad company and the coal company should be dissolved.

It seems logical, therefore, to say that the decision in the Delaware & Hudson case, even if not modified by subsequent decisions, has at least been explained away so far as that decision tends to hold that the ownership of stock in a corporation does not constitute an interest either direct or indirect on the part of the stockholder in the business of the corporation.

The conclusion is irresistible that Secretary Mellon, under the section of the statute which we are now considering, is not qualified to hold the office of Secretary of the Treasury.

Attorneys Faust and Wilson, in their opinion, say:

"Such a construction is repugnant to common sense and would tend to eliminate the men best qualified by training and experience to administer the intricate business of the Treasury."

And the Attorney General, in his opinion, says such a construction would—

"* * * exclude from the office a great majority of the men most competent to hold and administer it efficiently, without accomplishing any good."

We are not at present concerned with the result of our conclusion. We have not been asked by the Senate whether the law is a good one or a bad one. We have not been asked to express any opinion as to whether it should be amended or absolutely repealed. The constitutionality of the act has not been questioned. These questions are all outside of the record and all outside of the duty imposed upon the committee by the Senate.

We are asked a simple question, although it may be a difficult one. The law which we are asked to construe is specifically stated in the resolution and, regardless of consequences, it becomes our duty to answer the question without considering the effect or without considering the reasonableness of the statute. Perhaps the statute should be repealed. Perhaps it should be modified. That is not for the committee to determine in the performance of the duty imposed upon it by the Senate. Nevertheless, we feel constrained to call the attention of the Senate to some historical matters and legal opinions which contradict the position taken by these eminent attorneys.

The case of A. T. Stewart, who was appointed by President Grant as Secretary of the Treasury, has a direct bearing. Mr. Stewart was nominated for that office and was formally confirmed by the Senate. The prohibiting statute was apparently not called to the attention of President Grant or the Senate. After Mr. Stewart had been confirmed the President's attention was called to this statute (the same law now under consideration in the Senate resolution). It was conceded that under this statute Mr. Stewart, on account of the business in which he was engaged, was disqualified. Thereupon President Grant sent a message to the Senate calling the attention of the Senate to the statute, and in this message he officially asked Congress to pass an amendatory act which would, in effect, exempt Mr. Stewart from its provisions.

Opposition to the change or the repeal of the statute at once developed. The President, under the circumstances, sent another message to the Senate, withdrawing the name of Mr. Stewart, who, although confirmed, had not been commissioned as Secretary. The President then submitted the name of Mr. George Boutwell to be Secretary of the Treasury, and he was later confirmed by the Senate.

A bill was introduced to change this law, but it never made any headway. Congress apparently at that time was satisfied with the law and took no action toward its modification or repeal.

This law applying to the qualifications of the Secretary of the Treasury has been in force practically from the beginning of the Government. The records of the House of Representatives show:

"Mr. Burke gave notice that he meant to bring in a clause to be added to the bill to prevent any of the persons appointed to execute the offices created by the bill from being directly or indirectly concerned in commerce, or in speculating in the public funds, under a high penalty, and being deemed guilty of a high crime or misdemeanor." (House proceedings, Monday, June 29, 1789; 1 Annals, 611.)

The next day the records show that the following occurred:

"Mr. Burke introduced his additional clause, which, after some alteration and addition proposed by Mr. Fitzsimons and others, was made a part of the bill." (House proceedings, Tuesday, June 30, 1789; 1 Annals, 615.)

The purpose of the provision contained in this law has been referred to in the Attorney General's opinions and in the opinion of the Supreme Court noted below.

In holding that certain officers of the Treasury Department, whose appointments were authorized by section 3 of the act of March 3,

1817, were subject to the prohibitions and restrictions of section 8 of the act of September 2, 1789, Attorney General Clifford made the following statement with respect to the purpose of the latter section:

"One of the principal objects of the restriction was to withdraw from the accounting officers of the Treasury every motive of private interest in the performance of their public duties and to guard the Nation from the consequences frequently to be apprehended when the business affairs of public officers are suffered to be commingled with the financial concerns of the country.

"To prevent the public mischief within the true intent and meaning of the law it is as necessary to apply its restraining influence to the additional officers of the Treasury, authorized by the third section of the act of 1817, as it was in the first instance to those designated in the original act * * *." (4 Op. Atty. Gen. 555.)

In an opinion by Solicitor General Hoyt, approved by Secretary of the Treasury Knox, relating to the question whether there was any legal objection to the Treasurer receiving the principal and interest of certain Philippine bonds and distributing same to the holders of the securities, there is the following statement with respect to section 243 of the Revised Statutes (the section quoted in the Senate resolution):

"Section 243, Revised Statutes, forbids the Secretary of the Treasury, the Treasurer, and the Register, among other officers, to be concerned or interested directly or indirectly in the purchase or disposal of public securities of the United States or of any State. The obvious purpose of that law, as shown throughout the section, is to prohibit personal interest in such bond issues and certain other affairs and business and private emoluments or gain in the transaction of any business in the Treasury Department." (25 Op. Atty. Gen. 99.)

In ex parte Curtis (1882) (106 U. S. 371), in which the Supreme Court upheld the constitutionality of the act of Congress of August 15, 1876, prohibiting political campaign contributions between certain officers and employees of the United States, the court stated (p. 372):

"The act now in question * * * rests on the same principle as that originally passed in 1789 at the first session of the First Congress, which makes it unlawful for certain officers of the Treasury Department to engage in the business of trade or commerce, or to own a sea vessel, or to purchase public lands or other public property, or to be concerned in the purchase or disposal of the public securities of a State or of the United States * * *."

After enumerating certain other statutes of a similar character the court continued (p. 373):

"The evident purpose of Congress in all this class of enactments has been to promote efficiency and integrity in the discharge of official duties and to maintain proper discipline in the public service."

With the exception of the bill which was introduced at the request of President Grant to modify this law, no attempt, so far as we are able to ascertain, has ever been made, either in Congress or out of it, to change the qualifications of the Secretary as therein set forth.

In the Federal Reserve act Congress provided by law that no member of the Federal Reserve Board should be an officer in any banking institution; neither should any such member be a stockholder. In order for any person to be qualified to be a member of this board it is not sufficient that he resign official positions and his directorates on banking institutions but he must absolutely dispose of any stock he may own in any banking institution.

This act was passed in 1921. It provided in words that a member of the Federal Reserve Board should not be a stockholder in a bank. Under the reasoning of Attorneys Faust and Wilson this is "repugnant to common sense," and in the opinion of our Attorney General such a law must "exclude from the office a great majority of the men most competent to hold and administer it efficiently."

In the case of Mr. Mellon, in order to qualify himself for the office which he now holds, he not only resigned the offices which he held in banks but he disposed of all his stock in such banking institutions and at the present time he is not the owner of any bank stock.

In the same way, and in the same manner, would it not be as logical for him to dispose of his stock in business institutions as well as in banking institutions?

The objections set out in these briefs referred to claim that if the construction above given is applied to this law, competent men can not be secured for the office, and yet, during all the time that the Federal Reserve act has been in effect, we have never heard any complaint on the part of anyone that the provisions of that law which prohibits a member of the board from owning stock in a bank has had the effect claimed by the Attorney General and Attorneys Faust and Wilson.

It would be just as easy for Mr. Mellon to sell his stock in the Gulf Oil Corporation or the Aluminum Co. of America as it was for him to sell his stock in the Mellon National Bank at Pittsburgh.

As late as February, 1927, Congress passed an act for the regulation of radio communications, and in this act it provided that no member of the commission therein set up for the control of the business shall be "financially interested" in the manufacture or sale of radio apparatus or in the transmission or operation of radio messages or broadcasting.

It seems that in our own day Congress, in passing laws and providing officials for the administration of the same, has done the same

as our forefathers did more than 100 years ago, and has been particular in providing that the public official shall not be financially interested in the corporations coming under his control in his official capacity.

In the radio act above referred to it is not specifically stated that a member shall not be a stockholder in the radio corporation. In the act we are asked to construe by the Senate it is not specifically stated that the Secretary of the Treasury shall not be a stockholder in a corporation engaged in trade or commerce, but it is stated that such Secretary shall not be either directly or indirectly interested in the business of trade or commerce. In the radio act we have provided that members of the commission shall not be "financially interested." The language in the radio act is not nearly so broad as in the act which we are construing, and yet the Senate is so careful in seeing that the radio act is administered in good faith that it requires nominees for places on the commission to absolutely dispose of all stock owned in the corporations to be regulated before it will confirm such nominees. There has been an instance of this kind during the present session, wherein the President sent to the Senate a nominee for a place on the Radio Commission, and before the confirmation took place the nominee was required to actually and in good faith sell stock which he owned in some of the corporations to be regulated.

It seems, therefore, that even the present Congress had not regarded such statutes as foolish or as excluding from office "a great majority of the men most competent to hold and administer it efficiently."

This law which the Senate has asked us to construe has been on the statute books for more than 100 years. If it is not going to be repealed or modified, it ought to be enforced.

LAW ENFORCEMENT

Just at the present time a great deal is being said about law enforcement. From the public press it is learned that the President of the United States has appointed, or is about to appoint, a commission to study the subject with a view of bringing about better enforcement of our laws. If we expect to enforce the law generally as to the citizens of our country, why have we not the same right to ask that our statesmen and our public officials should be weighed in the same balance? And is it not true that the ordinary citizen will not have the same respect for law generally if he understands that a plain statute is being violated by those in control of the Government itself? Why not begin our law enforcement at the top?

This idea of general law enforcement and respect for all law was recently very beautifully portrayed by a great statesman. He said:

"I have accepted this occasion for a frank statement of what I consider the dominant issue before the American people. Its solution is more vital to the preservation of our institutions than any other question before us. That is the enforcement and obedience of the laws of the United States, both Federal and State.

"I ask only that you weigh this for yourselves, and if my position is right, that you support it—not to support me, but to support something infinitely more precious—the one force that holds our civilization together—law. And I wish to discuss it as law, not as to the merits or demerits of a particular law, but all law, Federal and State, for ours is a Government of laws made by the people themselves.

"A surprising number of our people, otherwise of responsibility in the community, have drifted into the extraordinary notion that laws are made for those who choose to obey them. And, in addition, our law-enforcement machinery is suffering from many infirmities arising out of its technicalities, its circumlocutions, its involved procedures, and too often, I regret, from inefficient and delinquent officials * * *.

"Life and property are relatively more unsafe than in any other civilized country in the world. In spite of all this we have reason to pride ourselves on our institutions and the high moral instincts of the great majority of our people. No one will assert that such crimes would be committed if we had even a normal respect for law and if the laws of our country were properly enforced. * * *.

"What we are facing to-day is something far larger and more fundamental—the possibility that respect for law as law is fading from the sensibilities of our people. Whatever the value of any law may be, the enforcement of that law written in plain terms upon our statute books is not, in my mind, a debatable question. Law should be observed and must be enforced until it is repealed by the proper processes of our democracy. The duty to enforce the laws rests upon every public official and the duty to obey it rests upon every citizen.

"No individual has the right to determine what law shall be obeyed and what law shall not be enforced. If a law is wrong, its rigid enforcement is the surest guaranty of its repeal. If it is right, its enforcement is the quickest method of compelling respect for it. I have seen statements published within a few days encouraging citizens to defy a law because that particular journal did not approve of the law itself. I leave comment on such an attitude to any citizens with a sense of responsibility to his country.

"In my position with my obligations, there can be no argument on these points. * * *.

"It is unnecessary for me to argue the fact that the very essence of freedom is obedience to law; that liberty itself has but one foundation, and that is in the law." (President Hoover, in an address before the Associated Press, New York City, April 22, 1929.)

This beautiful sentiment so eloquently expressed should be our guiding star. But it is not enough to state our ideas in beautiful generalities. We must practice what we preach. It is not sufficient that those at the top should remind the common citizen of his duty but the high official, the appointing power, must obey the same law for which he demands obedience of the citizen. When the law is strictly and honestly obeyed and followed by the official, the respect of the common citizen for all law will be greatly increased. If corruption in official life had not been so universal during the last few years, or if such crimes when exposed had been publicly denounced by high officials in our Government, this disrespect for law charged by the President to be almost universal would have been much lessened if not entirely eliminated.

Most of us have a very high admiration for Alexander Hamilton, the first Secretary of the Treasury. His ability and his statesmanship are lauded and praised by his countrymen more than a century after he has passed away, and yet this great statesman held the office of Secretary of the Treasury under President Washington while this particular law, now before us for consideration, was on the statute books. It seemed, in that day, that there was no danger such as is pointed out in the briefs of the Attorney General and Messrs. Faust and Wilson.

When President Grant appointed a Secretary of the Treasury who was disqualified under this act, he formally withdrew the nomination and sent in another name.

We feel, therefore, that the danger to the country, if Mr. Mellon be disqualified from holding the office of Secretary of the Treasury, has been greatly exaggerated. If, however, the country has reached the condition where only men owning millions of stock in business corporations are qualified to hold the office of Secretary of the Treasury, then instead of trying to nullify the law and set a precedent before the people, we should amend or repeal it so that at least we could truthfully say that those whose duty it is to enforce the law are not themselves looking for technical means by which the law can be nullified.

There only remains for our consideration in connection with the resolution before the committee, the question involved in section 63 of title 26 of the Code of Laws. This section reads as follows:

"Any internal-revenue officer who is or shall become interested, directly or indirectly, in the manufacture of tobacco, snuff, or cigars, or in the production, rectification, or redistillation of distilled spirits, shall be dismissed from office; and every officer who becomes so interested in any such manufacture or production, rectification, or redistillation, or in the production of fermented liquors, shall be fined not less than \$500 nor more than \$5,000. The provisions of this section shall apply to internal-revenue agents as fully as to internal-revenue officers."

Under the stipulated facts before the committee Mr. Mellon at one time owned stock in the A. Overholt & Co., a corporation engaged in the manufacture and distillation of spirituous liquors. Before he became Secretary of the Treasury this corporation was put in liquidation in the hands of a trustee. The trustee had full discretion as to the liquidation of the assets. In accordance with this trusteeship the company has been fully liquidated and the former owners, including Secretary Mellon, have been paid for their interests, and Secretary Mellon has at this time no further connection with or interest in that enterprise or any other enterprise of a similar nature.

Although the corporation went out of business so far as the manufacture, production, rectification, or redistillation of distilled spirits was concerned, the complete liquidation of the assets of the corporation did not take place until after Mr. Mellon became Secretary of the Treasury. We do not believe there was any violation of this section in the appointment of Mr. Mellon as Secretary of the Treasury or in his holding such office. It will be noted that at the time he went into office, and since he has held the office, this corporation has not been engaged in the "production, rectification, or redistillation of distilled spirits," and therefore there has been no violation of this law.

CONCLUSION

In conclusion, therefore, we answer the questions submitted by the Senate specifically as follows:

First. The head of any executive department of the Government except the Postmaster General may legally hold office as such after the expiration of the term of the President by whom he was appointed.

Second. Secretary Mellon, under section 243 of title 5 of the Code of Laws of the United States, is disqualified from holding the office of Secretary of the Treasury.

Third. The appointment of Mr. Mellon as Secretary of the Treasury and his holding such office does not constitute a violation of section 63 of title 26 of the Code of Laws of the United States.

G. W. NORRIS.
T. H. CARAWAY.
T. J. WALSH.
JOHN J. BLAINE.

[S. Rept. No. 7, pt. 3, 71st Cong., 1st sess.]

ELIGIBILITY OF HON. ANDREW W. MELLON, SECRETARY OF THE TREASURY

Mr. BLAINE, from the Committee on the Judiciary, submitted the following additional views (pursuant to S. Res. 2):

1. I concur in the opinion of the committee to the effect that the head of a department may legally hold office as such after the expiration of the term of the President by whom he was appointed.

2. I concur in the opinion of the minority to the effect that the prohibition contained in section 243, title 5, of the United States Code, applies to a Secretary of the Treasury who owns a "substantial" amount of the stock of corporations "carrying on the business of trade or commerce" or who, in connection with members of his family and close business associates, has a substantial control of the operations of any such corporations.

3. A Secretary of the Treasury who owns, in whole or in part, a whisky distillery, but which distillery is not engaged in the production, rectification, or redistillation of distilled spirits, does not come within the prohibition of section 63 of title 26 of the United States Code.

However, section 243 is offended against if a Secretary of the Treasury is at any time during his term of office concerned or interested, directly or indirectly, in the disposal of liquor stock in trade or commerce or in the proceeds or profits of the business involved in the sale of whisky.

The Attorney General of the United States, William D. Mitchell, states "that at one time he (Andrew W. Mellon) held a partnership interest in a firm (A. Overholt & Co.) which distilled whisky," and "before March 4, 1921, the entire property of the firm was conveyed to a trustee under an irrevocable trust with full authority in the trustee to dispose of the property free from any control of those who were members of the partnership, but without power to operate the distillery," and that between March 4, 1921, and October 2, 1928, the whisky so held was sold.

It is not in dispute that Mr. Mellon was a beneficiary under such trust agreement and received his share of the proceeds and profits from the sale of the whisky while he was Secretary of the Treasury. It is presumed that the whisky was sold lawfully, and under the national prohibition act it could only have been sold as a commodity in trade and commerce.

The trustee, while having absolute control over the sale of the whisky, acted in no other capacity than as an agent for Mr. Mellon and his copartners, while Mr. Mellon retained his beneficial interest in such whisky and received the proceeds and profits therefrom, and such beneficial interest was a substantial amount.

Under these facts the Secretary of the Treasury was directly interested in carrying on the business of trade or commerce by a trustee, who, through the trust agreement, was substituted as his agent.

Clearly such transaction offends against said section 243.

The question arises, therefore, whether or not the Secretary of the Treasury could by any such device give himself an "immunity bath" by substituting an agent to act for him, though retaining the beneficial interest and receiving the proceeds and profits. The act of the agent (in this case the trustee) is the act of the principal. That is axiomatic, and it would not seem necessary to go into further discussion of that question in demonstrating that the Secretary of the Treasury stands as an offender against section 243.

4. Section 243 is not a self-operating law. A person who offends against such law "shall * * * forfeit to the United States the penalty of \$3,000, and shall upon conviction be removed from office and forever thereafter be incapable of holding any office under the United States." However, in this case the President has the power to remove Mr. Mellon from office by the simple process of appointing another person to such office.

The President also has the power to direct the Attorney General's department to bring an action against Mr. Mellon for the collection of the forfeiture provided by section 243. In such case his conviction would make him incapable of holding the office even if the President were delinquent in failing to name his successor.

The responsibility is solely upon the President to determine whether or not he will permit technicalities, the circumlocutions of the law-enforcement machinery, and its involved procedures (which the President has so emphatically denounced) to control his actions in this case and thereby defeat the objects and purposes of the law.

JOHN J. BLAINE.

[S. Rept. No. 7, pt. 4, 71st Cong., 1st sess.]

ELIGIBILITY OF HON. ANDREW W. MELLON, SECRETARY OF THE TREASURY

Mr. WALSH of Montana, from the Committee on the Judiciary, submitted the following individual views (pursuant to S. Res. 2):

That the Senate may be advised more fully of the proceedings had before the Committee on the Judiciary, acting under Senate Resolution 2, of the Seventy-first Congress, special session, it is apprised:

(1) That there was presented to the committee a letter from Andrew W. Mellon, Secretary of the Treasury, a copy of which is herewith attached, marked "Exhibit A."

(2) It was represented to the committee that one George D. Haskell brought suit against the Aluminum Co. of America and the representative of the Duke estate, alleging a combination between the said company and one James B. Duke, or a company represented by him, for the production of aluminum in a plant to be erected on or near the Saguenay River in Canada, where Duke had developed or was developing a large water-power plant, the electricity to be generated by it to be used in the aluminum plant. In that suit the deposition of Mr. Mellon was taken, copy of which is hereto attached, marked "Exhibit B." From the deposition it appeared that the enterprise, which contemplated the issuance of stock to the amount of some hundreds of millions of dollars, was the subject of conference between him, his brother, Mr. R. B. Mellon, and Mr. Arthur Davis, president of the company, and that by arrangement Duke and an associate, by the name of Allen, and Davis, had dinner with Andrew W. Mellon at his apartment in the city of Washington, in which the proposal to unite in the enterprise was under consideration for some hours. Later A. W. Mellon joined a party which visited the plant in Canada. In the deposition Mr. Mellon testified as follows, referring to the Aluminum Co. of America:

"A. Yes. I should say for over 20 years at least I have not been in touch with the affairs of the business other than occasionally seeing Davis when something would come up in conversation. But I was not generally consulted. Of course, if there was anything of importance in the way of policy or something that way I think I usually was. I am talking now of in the last 20 years" (pp. 5-6).

(3) In a suit brought in the Court of Claims of the United States by the administratrix of the estate of John H. Murphy against the United States, claiming that Murphy had a contract with the United States through Hon. John W. Weeks, Secretary of War, by which the said Murphy was commissioned to make or undertake to make a sale of certain cars belonging to the United States, then in Europe, the deposition of Peter F. Tague, formerly a Member of Congress from the tenth Massachusetts district, being taken, he testified concerning conversations between Secretary Weeks and himself and Mr. Murphy, in the course of which the witness testified, among other things, as follows:

"120. Question. What did Mr. Murphy say, if anything?

"Answer. Mr. Murphy—you mean at this interview in September?

"121. Question. The second interview in September.

"Answer. He told Secretary Weeks of the amount of work that he had put in in trying to sell these cars, of how he had been to almost every country in Europe, and that the men in Europe, his associates, had been around Europe trying to sell these cars, and that they had been unable to do so, and that he was positive this concern couldn't sell these cars in France. He then asked Secretary Weeks to tell him, if it wasn't a breach of confidence, to whom the option had been given, inasmuch as he had other people in New York peddling these cars and they were any one's to sell. He told him. I don't remember exactly the words, but in substance he said, 'Now, John, you've got me in an embarrassing position. I didn't intend to tell, but I have given this option to Secretary Mellon, for the Standard Pressed Steel Car Co.' And he said that they had a large organization and that if any one could sell these cars they could. Mr. Murphy then emphasized that he didn't believe they could sell them. He then said, 'Let this matter lay a little longer, and you come back to see me; and if they haven't sold them I will give you an opportunity to sell the cars.'

"122. Question. Did Mr. Murphy tell the Secretary where he could sell them?

"Answer. He told him he could sell them in Poland.

"123. Question. Does that exhaust your recollection of that interview?

"Answer. I believe Mr. Murphy told the Secretary at that interview that Poland had already bought some of these cars and had paid—I forget the price—but had paid a large price for them; that they were using the cars, and that they could take these cars over with practically no alteration and use them immediately, and that they needed the cars; and that he believed that an arrangement could be made with Poland so that they would be in a position to finance the sale.

"124. Question. Did the Secretary say anything about what he would do with regard to an investigation of the Polish situation?

"Answer. Yes; he said he wished to discuss with the State Department or the Treasury Department the condition of their finances in relation to the last sale of cars, and that he wanted to be in position to know their financial standing and whether they would be competent to take on this" (pp. 28-29).

The action was brought by Murphy during his lifetime, and his administratrix substituted after his death. His deposition being taken, he testified, among other things, as follows:

"157. Question. Will you state the conversation that took place between you at that time?

"Answer. I told the Secretary that I had received a proposition for these cars for Poland. I told him that the price offered me was \$1,200 by Major de Grass, of the General Equipment Co., of New York City. I told him that I found the cars were being freely offered for sale. I meant by that, by word of mouth freely advertised. And I told him if such was the case that I knew I could sell these cars. I told him that

Poland was the only country in the world, in my opinion, that would buy the cars. I told him that in the other countries, where changes were required, the cost was all the way from \$500 to \$1,300, and that the freight, cost of erection, and so on, made it practically prohibitive; that these cars could not be sold in other countries unless sold at a greatly reduced rate. I told him that Poland needed the cars. I told him that they had Baldwin locomotives with Baldwin air-brake equipment. I told him no changes had to be made. I told him they had their own erection yards in Danzig, where they had 4,600 cars from the United States of America and had paid \$1,800 previously. I told him that in my opinion Poland was absolutely the only country where they could expect to sell these cars. I said, 'Now, Senator, I would like the privilege of going over to try to sell these cars for you.' He said, 'Now, John, you have got me in a very embarrassing position.' He said, 'I didn't intend to tell you the name of the man I have given the option to, but now I will tell you.' He told me the man was Mr. Mellon, and that 'Mr. Mellon has a very powerful'—no; I asked him, 'Senator, would you mind telling me what countries he has got the option for?' He says, 'France.' I says, 'He will never sell these cars in France. We have gone over France with a fine-tooth comb, and not only France but her colonies.' I says, 'France already has 27,000 more cars than she needs. You can see them on the railroad tracks all the way from Paris to Sofia.' I says, 'He will never sell these cars to France.' He says, 'John, that might be, but I must keep my word with him,' and he said, 'You come back and see me again.' So I left the Secretary, and I believe I returned again to New York and Boston.

"177. Question. Does that comprise what you recall of that conversation?"

"Answer. Practically. I do not recall at this time whether it was at this conference or at the conference of October 10 that the Secretary told me that Mr. Mellon had failed in his efforts to sell the cars to France" (pp. 66, 69).

(4) A Washington dispatch appearing in the Journal of Commerce of date August 29, 1928, was read to the committee. It gave the information that the Gulf Refining Co. had been awarded contracts to supply the requirements of the Shipping Board Emergency Fleet Corporation at all Gulf and Atlantic ports with fuel oil, the contract calling for deliveries amounting to approximately 8,000,000 barrels annually. Copy of the article is herewith attached, marked "Exhibit C."

EXHIBIT A

TREASURY DEPARTMENT,
Washington, April 18, 1929.

DEAR SENATOR REED: I understand that the Senate Judiciary Committee wishes to know whether I am now concerned in carrying on "trade or commerce" in violation of the law which makes such action a high misdemeanor, and that the committee has asked you to meet with it at its session to-morrow morning.

Before I took office as Secretary of the Treasury, in March, 1921, I resigned every office that I then held in any corporation and resigned all my directorates in such corporations, and I have not since that time, nor am I now, a director or officer in any corporation for profit. I am a trustee or director of the University of Pittsburgh, the Carnegie Institute, and of several hospitals and charitable corporations, none of which, however, is engaged in trade or commerce or in any business conducted for profit.

Before I became Secretary of the Treasury I sold every share of stock which I owned in any national bank, trust company, or other banking institution, and I have not since then owned, nor do I now own, any stock in such corporations. I owned then and I now own a substantial amount of stock in the Gulf Oil Corporation, the Aluminum Co. of America, the Standard Steel Car Co., and other business corporations, but in every case my holding is very much less than a majority of the voting stock of such company. As far as these companies are concerned, my active connection with them was severed in 1921 as completely as if I had died at that time. I have not concerned myself with their affairs, and I have not endeavored to control or dictate their operations in any way. It should be needless to add that I have in no way taken part in the adjudication or settlement of any Federal taxes upon such companies, and I have consistently refrained even from inquiring about their tax affairs.

Senate Resolution 2 mentions also the prohibition against an internal-revenue officer being interested in the production of distilled spirits, as if to imply that there was some question of my having violated that statute. As you know, I had an interest in A. Overholt & Co., but that company discontinued the manufacture of distilled spirits several years before the prohibition amendment was adopted. The company was put in liquidation in the hands of a trustee before I became Secretary of the Treasury, the trustee having full discretion as to the liquidation of the assets. This company has been fully liquidated, the former owners, including myself, have been paid for their interests, and I have no further connection or interest in that enterprise or any other of that nature.

All the foregoing facts have been so often stated publicly that I had not supposed there was the slightest question about them in the minds

of any person interested, but I should be glad to have you explain the situation to any member of the committee who is not familiar with them.

Yours very truly,

A. W. MELLON.

Hon. DAVID A. REED,

United States Senate.

EXHIBIT B

GEORGE D. HASKELL v. WILLIAM R. PERKINS ET AL., EXECUTORS OF THE
LAST WILL AND TESTAMENT OF JAMES B. DUKE, DECEASED

NEW YORK, July 2, 1928.

Met pursuant to agreement, in room 640, Hotel Biltmore.

Present: The notary, Mr. Whipple, Mr. Park, and Mr. McClennen.

The taking of this deposition was noticed by the plaintiff for the city of Washington, D. C., but by agreement of counsel, for their mutual convenience, finding Mr. Mellon in New York, it is taken in New York before Rowland W. Phillips as commissioner.

Andrew W. Mellon, called as a witness in behalf of the plaintiff, being duly sworn, testified as follows:

Direct examination by Mr. WHIPPLE:

Q. Will you state your full name, Mr. Mellon?—A. Andrew William Mellon.

Q. And your residence?—A. Pittsburgh, Pa.

Q. I assume the court will take judicial notice that you are now and have been for several years Secretary of the Treasury and residing temporarily in Washington.—A. Since 1921, which is about seven years and four months.

Q. And you have been continuously Secretary of the Treasury since then?—A. Since that time.

Q. Are you familiar with a corporation known as the Aluminum Co. of America?—A. I am.

Q. You know of it as a corporation organized and having its principal office at Pittsburgh, Pa.?—A. I do.

Q. How long have you been interested in the corporation?—A. Almost since the inception of the corporation; I do not recall just how many years ago that is—what year I became interested in it.

Q. Was your brother also interested—Mr. R. B. Mellon?—A. Yes.

Q. Equally with you?—A. Yes.

Q. And has been from the beginning?—A. Yes.

Q. Were you at any time a director of the corporation?—A. I was.

Q. Approximately between what dates?—A. From the time I speak of until I went to Washington or shortly before the time I went to Washington, in March, 1921. I then resigned.

Q. Was your brother a director covering the same period of time?—A. Yes.

Q. And he did not resign but has continued since as a director?—A. He has continued since.

Q. Have your financial relations with your brother during this whole period of time been very close and intimate?—A. Yes.

Q. I have seen it stated and I will ask you to verify it that in all business matters in which you are interested he also is equally interested, or in practically all.—A. No; but in a great many investments and properties that we have, we have them together, but not all.

Q. But you acquired equal interests at the same time in the Aluminum Co. of America?—A. Yes.

Q. And have continuously held equal interests since that time? I limit it up to 1925.—A. Yes.

Mr. McCLENNEN. Mr. Whipple, as we know, but to avoid any misunderstanding later, when you say the Aluminum Co. of America you mean whatever its name was. At the beginning it was the Pittsburgh Reduction Co.

The WITNESS. The Pittsburgh Reduction Co.

Mr. WHIPPLE. Yes.

The WITNESS. The same business.

Mr. WHIPPLE. It may be understood that in speaking of the Aluminum Co. of America I refer to the present organization and also that or those which it succeeded—I mean the original company.

Mr. McCLENNEN. It was merely a change in name?

Mr. WHIPPLE. Yes.

Q. Do you object to stating the stock holdings of your brother and yourself in, say, January, 1925, in the Aluminum Co. of America?—A. I do not recall the exact number of shares. Generally speaking, it was about 15 per cent; something over, but thereabouts.

Q. That is your combined holdings, or each?—A. No; the combined holdings were twice that.

Q. Yes; I was not quite sure which you meant, whether it was that or not. Did you meet at about the time you went into it the president of the corporation, Arthur V. Davis?—A. Well, he was not president at the beginning. Captain Hunt—Alfred B. Hunt—was then president.

Q. Was Mr. Davis connected with it when you became interested in it?—A. He was.

Q. And you have known him ever since?—A. Ever since.

Q. Have your business relations with him been what might be called close or intimate?—A. Yes.

Q. Was this one of the corporations in which you felt some personal interest and had some personal knowledge of its affairs?—A. In the early days I was closely in touch with it, but later on I was very much occupied, even before I went to Washington, with other undertakings, and so I did not keep an active connection with the company in the sense of knowing all the trades that were made or the developments. For a good many years I sort of dropped out, because I was too much absorbed with other investments.

Q. It would be fair to say that you gave up that attention to what might be called the details?—A. Yes.

Q. That you had been able to give attention to before?—A. Yes. I should say for over 20 years at least I have not been in touch with the affairs of the business other than occasionally seeing Davis when something would come up in conversation. But I was not generally consulted. Of course, if there was anything of importance in the way of policy or something that way I think I usually was. I am talking now of in the last 20 years.

Q. Did your brother continue, so far as you observed, in active participation in the affairs of the company or care of details?—A. No. To an extent he was familiar with what was going on, but he was not at all active in the affairs of the company.

Q. But he continued as director?—A. He continued as director.

Q. Can you remember who the directors were other than your brother at the time you resigned?—A. Well, I remember some of them.

Q. There was Mr. Davis, of course?—A. There was Mr. Davis, and I think his brother was also a director at that time; and there was a man who has now retired and is living up at Williamstown—what was his name?

Mr. McCLENNEN. Was it Mr. Laurie?

The WITNESS. Mr. Laurie; and there was Gillespie, D. L. Gillespie. That is all I can think of just now.

Q. Did you know Mr. Gillespie pretty well, and Mr. Laurie?—A. Oh, yes.

Q. Had you other business connections or contacts with them?—A. With Mr. Gillespie some other business contacts and investments, but not with Mr. Laurie other than the aluminum business.

Q. Did you at some time meet the late James B. Duke?—A. I met him, I think it was, in 1922, in Washington. I had under consideration a man from Winston-Salem, Mr. Blair, for the position of Commissioner of Internal Revenue. He had been recommended and one of the references or one of the parties who it was stated to me was acquainted with Mr. Blair was Mr. Duke. I was not acquainted with Mr. Duke but I asked over the telephone or in some way, perhaps I wrote to him, I do not recall, about Mr. Blair. He said that he was going to New York and would stop in Washington to see me, which he did, and he brought with him a man who he said knew Mr. Blair better than he did, and that man died on the way to Washington, dropped dead on the train, and he had quite a time in Washington when he got there. That was all in relation to Mr. Blair. And the next time and the only other time—

Q. If you will pardon me, as to that, perhaps you have answered it. You had no conversation with Mr. Duke at that time except with reference to Mr. Blair?—A. No.

Q. Then the next time you saw him?—A. The next time was at my apartment in Washington, when Mr. Duke and Mr. Allen with him, and Mr. Davis came to dinner. Mr. Davis had made the engagement, had spoken to me of Mr. Duke, and he wanted to make an arrangement for Mr. Duke to meet me, and I suggested that they come to dinner.

Q. In the meantime, I take it, that you had not talked with Mr. Duke at all?—A. No.

Q. And had not met him?—A. No.

Q. And I suppose you then remembered him as the person who dropped in at Washington and spoke about Mr. Blair?—A. Oh, yes.

Q. Do you know a man by the name of George G. Allen?—A. Yes.

Q. When did you first meet him?—A. He came with Mr. Duke to the dinner I speak of. That is the first meeting.

Q. Had you ever heard of him before that?—A. I do not think so. I do not recall it.

Q. You say that Mr. Davis arranged the meeting?—A. Yes.

Q. Do you know that at some time later a merger was negotiated and arranged between a corporation known as the Quebec Aluminum Co. (Ltd.) and the Aluminum Co. of America?—A. You mean before this dinner?

Q. No; after this interview.—A. I knew afterwards. I do not just recall the name of the company.

Q. Well, I am reminded that it is the Canadian Manufacturing & Development Co., although the correspondence or negotiations that I refer to were on the part of Mr. Davis on the one side and Mr. Duke on the other, representing, respectively, the Aluminum Co. of America and the Quebec Development Co.—A. Well, I knew that Mr. Davis had been in negotiation with Mr. Duke at the time of this dinner. It was on account of Mr. Duke's interests in Canada, the water-power interests, and, as I understood, he wanted to connect up with the Aluminum Co. and negotiate an alliance there so that he would have a market for his water power.

Q. You knew that before the meeting?—A. Yes.

Q. From whom did you learn it?—A. Mr. Davis.

Q. How long before the dinner at Washington did you learn it?—A. Not a very great while; I suppose a month or two or something like that; not very distant.

Q. How did you learn it—I mean was it in writing or telephone or personal interview?—A. No; I was just thinking where; I think it was when I was out in Pittsburgh that Davis spoke to me about it.

Q. Can you fix approximately the date when you were out in Pittsburgh?—A. No; I could not do that.

Q. But it was within two months prior to the dinner?—A. My recollection is it was not a long time before it. It may have been several months, not very long, though.

Q. Well, possibly it would assist you somewhat if I called your attention to the fact that there is in existence and has been put in evidence a telegram dated January 13, 1925, about the dinner.—A. Yes.

Q. And to refresh your recollection perhaps or to assist your memory I will read it to you.—A. Yes.

Q. It is a telegram from Mr. Davis to Mr. Allen, this same Allen I spoke of a moment ago. It reads as follows:

"Mr. Mellon has just telephoned me to ask if Mr. Duke will take dinner with him on Friday night and says that he will arrange the dinner at whatever time fits in with the arrival of the train. Mr. Mellon added that he would be alone at dinner, so that we can come direct from the train to his house. It was arranged that I was to let Mr. Mellon know what time we would arrive. Can you figure on the train schedule a little and I will telephone you the first thing to-morrow morning from New York, so that I can let Mr. Mellon know promptly as possible."

Now, that is a telegram which was put in evidence as Exhibit 105. You think that refers to the dinner that you have spoken of?—A. Oh, yes; undoubtedly.

Q. That would fix it as Friday after January 13, 1925?—A. Yes.

Q. Which is—

Mr. McCLENNEN. January 16, I think.

Q. Which we will accept for the moment as on January 16, the exact date being not of the slightest consequence.—A. Yes.

Q. We will speak of it, then, as the January 16 dinner. Now, you said a moment ago that it was your best memory that you had heard of what I may speak of as negotiations perhaps a couple of months before that.—A. Yes.

Q. And does that accord with your memory?—A. Yes.

Q. I may state perhaps for your information that Mr. Davis in his testimony has fixed the date when those negotiations opened as about November 6, which would be just 2 months and 10 days before the dinner.—A. Yes.

Q. Then, I will ask you, did Mr. Davis in his first talk speak of negotiations as having been opened or as something that he was going to look into?—A. It was rather tentative, or, rather, that Mr. Duke was desirous of making an alliance with the Aluminum Co. on account of this water power.

Q. Did he say that he had seen Duke; do you remember?—A. Well, I would infer that he had seen Duke; he had been negotiating with him.

Q. And this occasion when the first information was given you, you think was at Pittsburgh?—A. I would not be certain. It may have been. I just have a recollection of seeing Davis at Pittsburgh and it is likely that that is when. It might possibly have been by telephone. I think likely the arrangement for the dinner was over the telephone.

Q. Yes; the arrangement for the dinner; but you think before that at some interview at Pittsburgh Mr. Davis had mentioned something to you about it?—A. Yes; I think so.

Q. And then was the first you learned about the project?—A. Yes.

Q. Had you ever heard before that of Duke's having a water power?—A. I do not recall that I had.

Q. Or that he had any notion or desire to join forces with the Aluminum Co. in any way?—A. Not before the period I speak of.

Q. That was your first information about it?—A. Yes.

Q. Or that Mr. Davis had desired to get in touch with Mr. Duke?—A. No; I had not.

Q. Nothing of that sort?—A. I had not any information on that score.

Q. Appreciating it was a long time ago and that you have had many things to pass through your mind since, I still would like to have you state as fully as you can that first or initial conversation with Mr. Davis in which he gave you this information.—A. It has pretty nearly been covered by what I have said already. I do not know of anything further than that; that Duke had this large water power and wanted to negotiate with the Aluminum Co.

Q. Did he say anything about Mr. Duke's having organized or having in mind to organize an aluminum company?—A. No.

Q. Did you hear at some time that Mr. Duke had caused to be organized a corporation known as the Quebec Development Co. (Ltd.)?—A. No; I had no knowledge of that.

Q. You think Mr. Davis did not tell you that he either intended to or had at some time.—A. Not to my recollection.

Q. Do you remember whether you said anything at this initial interview at which Davis told you what you say Duke wanted?—

A. Well, it was something that was not very definite, very tangible at all; there was no plan or arrangement suggested. It was just in general, that they had had conversation on the subject.

Q. Did he mention Allen at that time?—A. I do not recall. He may have, but I do not recall it.

Q. Or any engineers that had conferred on the subject?—A. No.

Q. But you inferred that he had himself had a talk with Duke personally?—A. Yes.

Q. Did he at that time say anything about your seeing Duke?—A. No; I do not think so. I think that came afterwards.

Q. Did he keep you informed after that and up to January, 1925, of what was going on between himself and Duke?—A. No; I have not—

Q. What is your recollection of the next talk or the next thing you heard?—A. I think the next communication from Mr. Davis was regarding a meeting with Mr. Duke.

Q. Have you any letters on the subject?—A. No.

Q. Did you receive any?—A. No.

Q. Were you in the habit of keeping such letters as came to you from Mr. Davis?—A. Oh, yes; all my letters go in the files.

Q. And have you caused your files to be examined?—A. Yes.

Q. To see if there were any on this subject?—A. On the occasion, that this question of having my testimony taken, as to the date of that dinner, I had my secretary then look up to see if he had anything that showed the date of the dinner, and there was something, I have forgotten exactly, that gave the date of that dinner, but that was the only thing.

Q. Did you ask him to examine to see whether there were letters from Mr. Davis or copies of letters you sent to him?—A. Well, he naturally would have found them. I asked him to see if he could locate that date. But my own recollection is that I never—I do not recall receiving any letters from Davis during all this time I have been in Washington; although I have had communications from Davis which have been usually on the telephone, and he has been in Washington and I have seen him when I was at Pittsburgh.

But there were other matters; for instance, we got into a controversy in the last campaign, over the tariff question. Mr. Davis, who was the Democratic candidate, attacked me or criticized me in the position I held in that in that position I used my influence to obtain high tariff rates for the company, and I had to answer some of those things. Mr. Davis and Mr. Hunt and some of the others came down to Washington on that. That was one thing. There have been subjects of that nature that have brought the contact, but I do not just recall of any letters between us.

Q. In the subpoena that was served you were asked to bring any letters or copies of letters?—A. Yes.

Q. And I had hoped and was assured by Mr. Bond, the Assistant Secretary of the Treasury, that you would have some one make diligent search in your files to see if there were any such letters. Do you really know whether that has been done?—A. That has been done by my secretary.

Q. By whom?—A. My secretary.

Q. What is his name?—A. Mr. Sixsmith.

Q. Did he report to you that he had made a careful examination?—A. Yes.

Q. Did he say whether he found any letters from Mr. Davis concerning this matter?—A. He found only something that indicated that date of the dinner.

Q. What was that?—A. I have forgotten; it was something. I won't be sure, but I think it was an answer to a request for an appointment out of Washington, and I said that I had an engagement and mentioned this dinner. Now I think that is it. I would not be sure. He showed it to me but—

Q. Do you know when he made a search of the files?—A. At the time this question came up of having my testimony taken.

Q. You say that when letters come they are put in the files. Did you have any files with regard to the Aluminum Co. or Mr. Davis?—A. Yes; there was the file that had matters in connection—all this relating to the statement that was made on the question of the tariff and all that—those are all in that file.

Q. What is the earliest date of any communication in the file; do you remember?—A. I could not say.

Q. Did you receive any letters on the subject from your brother?—A. No.

Q. Any letter or letters?—A. No.

Q. Did you have any consultations with him or conferences or conversations with him; I mean prior to this dinner?—A. No; other than I think he was present at the time Davis spoke to me in Pittsburgh.

Q. Had he mentioned it before then?—A. No.

Q. Oh, he was present at the time?—A. Yes.

Q. What did your brother say to Mr. Davis in Pittsburgh when he spoke of Duke's proposition, or if I may call it, desire?—A. I do not recall any expression used.

Q. Did you make any remark about it?—A. I do not recall it exactly. You see, it was not anything that was at all before us to decide in any way on anything; there was nothing definite spoken of.

Q. Did Davis make any comment about it; did he say he was going to follow it up or anything of that sort?—A. I have no doubt he did.

Q. But you can not remember anything else that he said?—A. I do not recall the conversation very clearly. I recall the occasion and have an impression about it.

Q. Did he tell you about how much water power Duke had?—A. I think he did.

Q. And what is your memory about it in a general way?—A. Well, I knew it was a very large power.

Q. Did Davis tell you that?—A. Who?

Q. Davis.—A. Oh, yes.

Q. Well, what did he tell you about the water power? Perhaps that is a better way to put it.—A. Well—

Q. Did he tell you where it was?—A. Yes; and that it was a very large potential power that Mr. Duke had acquired. I think I recall he said that Duke had been working on this since 1911. I just have that in my mind.

Q. Did he speak of Price or the Prices in connection with it?—A. No; Mr. Davis did not speak of Mr. Price as far as I can recall. He may have. I remember that Mr. Duke spoke of Price, of the Prices.

Q. Did Mr. Davis tell you to what extent Duke had proceeded with the development?—A. Yes; I think he did in a general way; he spoke of this power development.

Q. Did he tell you where it was?—A. Yes; on the Saguenay River.

Q. Did he speak of the upper and lower development?—A. No; it was just a general reference to the project and the scope of it.

Q. Can you remember how he happened to mention it; what the occasion was of the meeting?—A. In Pittsburgh?

Q. Yes.—A. Well, it was just an occasion when he brought this matter up.

Q. I mean had you dropped in to see him when you were there or had he dropped in to see you and your brother?—A. I think it was rather that he is a director in our bank, and I make my headquarters in the bank, and he was there.

Q. Was it at an interview that had been arranged or one that was accidental?—A. Well, it had not been arranged. I happened to be in Pittsburgh and Mr. Davis usually came to see me. I do not go very often to Pittsburgh.

Q. And your brother was also there, you, think, rather accidentally?—A. Yes.

Q. Were any other directors of the Aluminum Co. there?—A. No; not to my memory.

Q. Did Mr. Davis say whether he had talked to other directors who were there?—A. It is possible that Roy Hunt was there, because he is also a director in the Mellon National Bank. He may have been present at that conversation. I do not just recall.

Q. But it was not a meeting of the directors of the bank?—A. There is a daily meeting there, and Davis comes to that daily meeting, and that is usually the time I see him.

Q. So you saw him practically every day you were there?—A. I don't think I was there more than a day at the time. Since I have been in Washington I do not think I have been in Pittsburgh more than—well, I have been there over the week end, but not to be at the bank.

Q. Then it would be true that being there only one day, if that was all, he saw you every day that you were there?—A. Yes.

Q. But on this single occasion. Now, can you tell us what you said, what the conversation was which led up to the dinner, if that was the next time that the thing was called to your attention?—A. Well, I recall that he said that Mr. Duke would like to come to Washington and talk this business over in Washington.

Q. With you?—A. Mr. Duke had said that he would.

Q. He would like to talk it over with you?—A. Yes; and I said that I would be glad to have him come to dinner and discuss it.

Q. Was that all?—A. I think that was all.

Q. What business did he say Duke wanted to talk over?—A. His water-power business.

Q. That is a combination or merger or something?—A. Yes; whatever it might lead to.

Q. And you remember nothing more of the conversation that occurred before the dinner?—A. No; that was substantially all.

Q. Who were present at the dinner?—A. Mr. Duke, Mr. Allen, Mr. Davis, and myself; the four of us.

Q. Was not your brother there?—A. No.

Q. No other director was there?—A. No.

Q. How long was the conversation on this matter on account of which they were there?—A. They came about dinner time. There was no conversation, as I recollect, immediately before dinner. We had dinner and sat up quite late; I should say we were there—yes—until about 1 o'clock. I think there is a 1.30 train that Duke's car was to go back to New York on, and we sat there until, my recollection is, about the time that they were to return.

Q. Did Mr. Duke bring Mr. Davis down in his private car; did they come together?—A. Well, I suppose so. I do not know.

Q. At any rate they went away together, the three of them?—A. They went away together.

Q. Can you tell us what was said by the different people on this subject during that interview?—A. The conversation was principally, almost wholly, on the part of Mr. Duke with me. I do not recall excepting what Mr. Davis might join in on something, or something casual, but the conversation was chiefly between Mr. Duke and myself.

Q. Will you tell us as best you can what was said by Mr. Duke and what was said by you?—A. Well, I have tried to refresh my memory on what was said. You see, it is difficult to remember clearly that length of time, when there have been so many other things all the time in my mind. But he described the water power and his acquisition of it and spoke a great deal of the paper industry. He seemed to want to interest me in that feature of it, the great possibilities of it, the great area that there was in paper and this power business and the Duke-Price business. He talked of that and the water power and the advantage that it would be to the Aluminum Co. to have that connection, to be interested in that power.

Q. What did he say of the advantages to the Aluminum Co. to have that power?—A. The future of the aluminum business would require great quantities of power; and I remember, too, he said that the Aluminum Co.—and that we ought to lay a basis for a broader and greater business on account of the developments that would make use of aluminum and that—

Q. That is, the great demand in the future, was that what he said?—A. Yes.

Q. The broadening demand for aluminum?—A. Yes; broadening demand, and that we ought to lay the basis for that; we ought to look ahead and have this power so that we could expand.

Q. Did he say he had been in the aluminum business?—A. No.

Q. How did he say that he knew of this great necessity there was going to be for water power?—A. Well, that was his vision.

Q. Well, what did he know about the aluminum business, or how had he learned about it?—A. Oh, well—

Q. Did he tell you?—A. Of course, he knew about the aluminum business; he knew that it was a consumer of power.

Q. Did he say how he had learned that?—A. No.

Q. What did he say as to how he had learned about this great prospective expansion of the business?—A. Oh, well, that was his speculation or imagination of the future of the business.

Q. Did he say he had looked into it at all?—A. He did not say that he had looked into the business, but just generally that here we had this great business, with its possibilities in regard to aviation and everything else, and there would be a great future to it.

Q. Did he mention that the Aluminum Co. of America was the only company of the size or substantial size manufacturing aluminum in America?—A. No; I do not think he mentioned that. That was generally known.

Q. But here was a man, as I observe, who never had any experience in the aluminum business telling to yourself and Mr. Davis his views in regard to what you ought to do in your business.—A. Well, that had not any significance. He had the power and wanted a customer for the power.

Q. Well, of course, there was always the possibility of his going into the business?—A. Yes.

Q. Did you speak of that?—A. No, no.

Q. But you understood it; that is, with all this great power, that it was adapted to the manufacture of aluminum?—A. Well, that was not discussed at all.

Q. I was wondering whether you appreciated that this great potential water development that he had that it was adapted to going into the aluminum business?—A. Oh, yes; I understood that, of course.

Q. Did he tell you that he had organized or caused to be organized in the December prior a company called an aluminum company?—A. No.

Q. The Quebec Aluminum Co.?—A. Not anything of that nature at all.

Q. Well, did you ask him?—A. No.

Q. Then, as I get it—A. It never occurred to me that he had been considering anything like that.

Q. Did he seem to be pretty well informed upon the aluminum industry?—A. Well, he did not talk much of the aluminum industry other than in the direction I speak of, that it had a great future. He was stressing the value of this power and the value of the Duke-Price business in connection with it.

Q. Was there any talk about bauxite deposits at that interview?—A. No.

Q. You knew bauxite was necessary?—A. Oh, yes; but there was nothing said of bauxite at all. We were not discussing the business.

Q. Well, as you have pointed out, he was discussing what he thought were magnificent opportunities for expansion in your business?—A. Yes.

Q. That is the aluminum business?—A. Yes.

Q. You did not ask him how he knew that, how a man, a stranger to the aluminum business, should be calling to the attention of a man who had been in it a great many years—A. Oh, no; that was a perfectly natural thing for him to speak of. Almost everybody has the same idea of the aluminum business, as having a very great future. It is

one of these—to a certain extent it is a new business, in a sense, and a new metal, comparatively speaking, and it has—

Q. Tremendous possibilities of development and profit?—A. Yes.

Q. And you knew that Duke was a man of sizable fortune?—A. Oh, yes.

Q. And that if he wanted to go into the aluminum business he could?—A. Oh, yes; there was no doubt about that.

Q. He had the water power?—A. Yes.

Q. Which is one of the great fundamentally essential requisites?—A. Yes.

Q. Provided he could get bauxite. That is the other?—A. Well, I did not know that, but I was not particularly—

Q. Well, did you know that bauxite was the other great fundamental requisite of the business?—A. Oh, yes; I understand the situation in the industry very well, but—

Q. Did you understand where there were bauxite deposits that had not been acquired by the Aluminum Co. or some of its subsidiaries?—A. Yes; I knew that there are a great many sources of bauxite other than those owned by the Aluminum Co.

Q. Where?—A. Abroad; some in Italy and in Austria and Yugoslavia, and then in South America, and also to some extent in this country, although there is very little in this country of the grade of metallic content that would make it profitable.

Q. Did Mr. Duke in the course of this conversation, which I suppose went on intermittently from perhaps 8 o'clock in the evening until 1 or so in the morning—A. Yes.

Q. Tell you that he had been spending considerable sums in investigating the feasibility or practicability of going into the aluminum business?—A. No; he did not mention that.

Mr. McCLENNEN. I think, Mr. Whipple, that perhaps in your assumption you have forgotten from your experience in Washington that you can not talk in the dwelling part of Washington until 1 o'clock and have a private car hitched to a 1.10 train.

Mr. WHIPPLE. I thought it was a 1.30 train.

The WITNESS. I do not recall how long they were there. I just recall that there came a time when they had to go, and they went. It was at least 12 o'clock, but—

Q. Well, call it that. During that time did Mr. Duke let drop that he had spent or caused to be spent very considerable sums of money in investigating the practicability of the aluminum industry?—A. No; no; he never said on that score.

Q. And I don't suppose it entered your head that possibly he might with his water power and bauxite which he could get hold of, of course—that he might possibly go into the industry or into the business?—A. Well, of course, I am positive that I had not any knowledge of any activity or anything in that direction upon the part of Mr. Duke. I am sure of that.

Q. Well, had anything been said on that subject?—A. Nothing.

Q. Between you and Mr. Davis?—A. No.

Q. I suppose you were always more or less on the lookout for possibilities of competition?—A. Well, as far as I was concerned, I was not on the lookout or thinking of the business. So far as the aluminum business is concerned, for a great many years I have depended entirely on Mr. Davis and I was—

Q. Well, I should perhaps have put it that you understood Mr. Davis was on the lookout for those possibilities?—A. Well, I was not troubling my mind about Mr. Davis lacking in resourcefulness so far as looking after the interest of the business is concerned. You might say he was practically the whole business and we depended upon him.

Q. Did Mr. Duke during the course of his suggestions as to what would be wise for the Aluminum Co. to do in respect of the development of his business point out the adaptability of his water power up there for an aluminum enterprise?—A. That is what he was speaking of, the advantage that it would be to the Aluminum Co.

Q. Did he speak of the geographical advantages or what were the advantages that he pointed out?—A. Well, the large quantity of power, the largest power development in the world or in America, I believe it was, or something of that kind.

Q. Did he say why he asked to see you about it?—A. I don't know; he may have.

Q. I beg your pardon?—A. I do not recollect of his having given any explanation of why.

Q. Was anything said either by Mr. Davis or Mr. Duke about further interviews that they had since Mr. Davis's talk with you in Pittsburgh?—A. No. As a matter of course, this dinner had come about through the conversations of Mr. Duke and Mr. Davis. There was not anything particularly said of that.

Q. You mean after the talk in Pittsburgh?—A. You are speaking of whether at this dinner anything was said about conversations?

Q. Yes.—A. No; there was nothing.

Q. I mean, were you told how far the negotiations had gotten along, whether they were any further along than they were in November?—A. No; according to my recollection there was not anything said of a particular plan or arrangement; it was a rather general conversation and it was all in the hands of Mr. Davis as far as any negotiations with

Mr. Duke were concerned, so he did not take up anything of that nature with me.

Q. Well, I do not quite see yet why, if it was all in Mr. Davis's hands, he wanted to talk with you.—A. Well, I suppose he recognized whatever was done would be—that I would be a factor in it, whatever it was.

Q. He did not propose anything particularly, did he?—A. No. When you say he did not propose anything, he suggested—

Q. Or did he?—A. He suggested taking in all of this property and taking an interest in the Aluminum Co.; that is, that we make some arrangements by which it would all be put together; just a suggestion of the advantages of the business and the power there, the advantage that it would be to us, and the advantage it would be to expand and have all this power for the future.

Q. But he had that; Mr. Davis had told you as much as that in Pittsburgh?—A. Oh, yes.

Q. Well, how much further did they get at this dinner?—A. I do not think that we got any further. There was no conclusions at all arrived at.

Q. Had you made any objection to Davis going in?—A. Had I made any objection?

Q. Yes.—A. No; I do not recall having made any objection. I did not know what the negotiation might develop into. I may have suggested, and I suppose I did to Davis, that if we could acquire the power, buy the power, that we ought to consider that for the Aluminum Co.

Q. Was that in the Pittsburgh interview?—A. No; I do not think so—well, I think perhaps it was in Pittsburgh. That was on the question of policy of acquiring the Duke-Price power project, and I said, "Well, he has not any market for the power and would he sell the property."

Q. Well, that is what Davis told you Duke had proposed; that is, that he wanted to sell it or put it into the Aluminum Co., was it not?—A. No; but my suggestion was that if we could buy it without regard to the use for the Aluminum Co. that it would be a fine property for the Aluminum Co. to own.

Q. Oh, you suggested that at the Pittsburgh interview?—A. I think so.

Q. And what you wanted to do was to buy it instead of taking Duke in?—A. Yes; that perhaps he would sell his power.

Q. Well, what did Duke say about that? Or what did Davis tell you?—A. I don't think when I talked with Duke I suggested that. I was depending entirely on Davis as far as the negotiations were concerned.

Q. But I do not quite see now the object of the dinner and the interview in Washington unless the thing had developed so that the gentleman whom they recognized as having really something to say about it was ready for something to be proposed.—A. Well, I did not consider that it was a meeting to discuss any plan, or any actual business, in connection with it. It was—

Q. Had you asked to see Duke?—A. Oh, no. It came altogether just as has been stated.

Q. That makes me inquire what Davis said to you was the object of meeting him.—A. That Mr. Duke wanted to meet me and talk this power proposition over with me.

Q. Yes; and having met you, the only thing you can definitely remember is that he said he had a very large water power and that there was ahead a great expansion of business in which the Aluminum Co. was engaged, and that he thought you ought to get the water power, or that in substance.

Mr. McCLENNEN. You have seemingly summarized what has gone before rather than ask any question, and you have omitted from the summary Mr. Duke's references to the paper business, and that as a potentially great user of power also.

The WITNESS. Yes.

Q. Yes; well, putting that in, that is the substance of all he said; that is, that he had a great water power, that the aluminum business had a great future, and that you ought to be on guard and look out for it?—A. Oh, no—

Q. And prepare yourself with water power?—A. As I recall this conversation, Mr. Duke was a very interesting man, and he started in and described his work up there in getting this property together; it had taken him a long time; and I remember he spoke of the different steps that he had to take and then about the nature of this power; that with this large lake—Lake St. John—that he had the right to raise the lake; I remember him speaking about the square miles of water; the franchise to raise the water 17 feet above what it then was, and this would make a continuous supply of power, of approximately a million horsepower. And he described the country up there, and then this paper business, and how this paper business was like the water power itself—yes; I remember it was the next thing to perpetual motion. He said now this water power, the rain falls over this country, and the water collects in Lake St. John, and so forth, and if we develop the power and use the water, it goes down the river and is evaporated into clouds, and comes down from the clouds again, and he says that is perpetual motion. Then he linked the paper business up with this perpetual motion; that this Duke-Price concern

had so many square miles of great areas of this timber; some of it they owned and some of it—well, anyhow, they had this available supply, and in cutting over it—that when they got it cut over the beginning of the cut would have grown up again to a place, that they could start over again, and they had for all time to come a supply of this pulp wood through the growth and the area of what they had. And he was picturing that industry. Now, we would take that industry, become interested; he seemed to desire to have us interested in his water power and the Duke-Price industry and in the aluminum business in connection with it, and we would have such a great future.

Q. Had you ever had anything to do with the paper-pulp business?—A. No.

Q. Had he?—A. I don't know.

Q. I beg pardon?—A. I do not know, other than the Duke-Price interests.

Q. You never knew of his having anything to do with it?—A. No.

Q. And, therefore, although this man, as it appears now, had organized the Quebec Aluminum Co. and, as it appears now, had been spending considerable sums of money in investigating the aluminum business and had sought to talk with you, the thing that you can remember most is that he talked about a business that you had never been in—that is, the paper and pulp business, nor he either. May I ask if that accords with your memory?

Mr. McCLENNEN. Just note on the record an objection to that question as unintentionally argumentative rather than interrogative, and as assuming facts not in evidence and leading, and not the proper question to put to one's own witness.

Mr. WHIPPLE. Read the question.

(The question was read, as follows:)

"Q. And, therefore, although this man as it appears now had organized the Quebec Aluminum Co. and as it appears now had been spending considerable sums of money in investigating the aluminum business—"

The WITNESS. Well, I had no knowledge of any organization of his. Q. No; but—

Mr. McCLENNEN. I think the witness ought not to be interrupted in his answer, and it is intensified by your assuming things not of his knowledge and not in evidence.

Q. I did not mean to interrupt you, Mr. Mellon.

Mr. McCLENNEN. I thought you almost involuntarily without meaning it had interrupted him. I think we had better go back and let him complete the statement that he was making.

Mr. WHIPPLE. Let us complete the question first and then make your answer in full instead of making it as you go along.

(The previous question was then read by the reporter.)

The WITNESS. Well, I would not say that I remembered it most. I have just given that as part of the conversation. Most of the conversation was this water power and the great extent of it.

Q. But are you quite sure upon reflection that he did not mention that he had been looking into the aluminum business and knew really a little something about it?—A. I am quite sure that there was nothing said to that effect.

Q. I beg pardon?—A. I am quite sure that nothing was said to the effect that he had been looking into the aluminum business.

Q. When next was this matter called to your attention after this dinner?—A. I am not very clear when or how long it may have been after that that I learned that Davis and Duke were approaching an agreement for the exchange of power with the Aluminum Co. I am not sure just how long it may have been afterward.

Q. Of course, you recognize that if the Aluminum Co. acquired this water power that no competitor or potential competitor could acquire it?—A. Well, there is no monopoly in water power. Canada is full of it. But this was a particularly desirable power.

Q. And particularly adapted to the aluminum business?—A. Well, of course, any power is adapted to the aluminum business.

Q. But this was the greatest in the United States?—A. So he said.

Mr. McCLENNEN. You do not want to put it that way, do you?

The WITNESS. In Canada.

Q. The greatest in North America?—A. I do not recall just whether he said it was the greatest in North America, but it was undoubtedly a great power.

Q. Did you talk with your brother about this at all after this interview?—A. Yes; on this question of making the reapprehension of the Aluminum property and making an exchange with Duke.

Q. Where was that talk?—A. I think that that was pretty much over the telephone.

Q. Did he come to Washington to see you about it at any time?—A. No; I do not recall that he came to Washington to see me about it.

Q. Do you remember anything that Mr. Davis said at this dinner in Washington or Mr. Allen?—A. I do not recall their part in the conversation. Mr. Duke I know kept up the conversation; he did most of the talking.

Q. Now, it may possibly refresh your recollection if I call to your attention the fact that on March 23, 1925, which was a little more than two months later, you see, after the dinner—A. Yes.

Q. Mr. Davis wired to Mr. Allen as follows:

"On arrival in Pittsburgh this morning I found Mr. R. B. Mellon had unexpectedly gone last night to Washington to confer with Mr. A. W. Mellon, returning to Pittsburgh to-morrow morning. I am therefore not able to make any progress to-day but will see Mr. Mellon to-morrow morning."

That is Exhibit 148 in the case. Do you remember that your brother did see you in Washington about it?—A. I have no recollection of my brother having come to Washington on this subject. I can not just recall. He may have.

Q. Did Davis come to Washington to talk about it?—A. I do not think so. I have no recollection that Davis came to Washington.

Q. Let me call your attention to the fact that two days later Davis wired Allen as follows: "My Washington visit is postponed until next week so I will be at your office to-morrow morning." (Exhibit 149.) That would indicate that Davis had arranged to go to Washington.—A. He may have.

Q. Do you remember about his coming or his planning to come?—A. I have not a recollection of Davis coming nor of my brother coming, but I would not say that they had not been there. My brother has been there at times and Mr. Davis has been there at times. But on this Duke power matter my nearest recollection is that my brother talked to me over the telephone about it, but he may have come to Washington.

Q. Then on April 7 Davis wired Allen, in part, as follows:

"Mr. A. W. Mellon and Mr. R. B. Mellon very much prefer the prior preference and straight preference plan that I outlined to you yesterday as they think it is a much better set-up for the future company and equally satisfactory if not a little more so to the stockholders than the original plan." (Exhibit 185.)

Do you remember having expressed your views on that subject?—A. I think I remember something of a plan of organization that was not the same as that which afterwards was arrived at, that I was consulted about. I can not recall just the particulars of it.

Q. Did you see any of the papers that were being drafted or being considered between the parties?—A. Yes; I remember I had sort of a typewritten set-up or something of that kind.

Q. Who furnished you with that?—A. I think that came from my brother.

Q. When?—A. Possibly it came from—well, it must have come from Pittsburgh.

Q. When?—A. I do not know. It must have been—that, of course, was along during this negotiation after the time we had the dinner.

Q. Have you that with you?—A. No; I have not thought of that until now. I had forgotten that there was such a thing. I will see if I can find whatever that was.

Q. That is a set-up of the proposed merger?—A. It was in connection with the reorganization of the Aluminum Co.'s structure, and there was something before we arrived at that which was concluded upon the one hundred and fifty million preferred and one hundred and fifty million common, there was something before that, since it has been brought to my attention, but I do not recall a great deal about it excepting that it is just my impression now that it appeared to be something not very clear but rather a complicated arrangement, whatever it was.

Q. Did you hear at any time the suggestion that in the reorganized company Duke should have one-ninth and the Aluminum Co. should have eight-ninths?—A. Yes.

Q. Were papers?—A. That was the basis that was finally arrived at.

Q. When did you first hear that discussed?—A. Well, that was along during that period. There was the dinner in Washington and the next time was when I went on a trip up to Canada with the aluminum people.

Q. That was not until July, I believe?—A. That was in July; yes. Now, it was along in that period somewhere that this occurred that I am speaking of.

Q. I think the letter in which that was stated was April 15.—A. Which? April 15?

Q. Yes.—A. Yes.

Q. How long before that had you heard about Duke's having one-ninth and the Aluminum Co. eight-ninths of the stock of the company?—A. I could not say just when.

Q. Did you see the—A. I only thought of it when it was brought to my attention at any time, and I do not recollect just the dates.

Q. Who told you about that?—A. It was either Mr. Davis or my brother.

Q. Well, did they show you the paper when drafted?—A. Yes; they either showed it to me or sent it to me. I just recall seeing the paper.

Q. Was that agreed on at the dinner?—A. Oh, no.

Q. Mentioned?—A. No, no; there was no definite mention of any percentage or anything in that direction.

Q. Now, I understand that you did see the letter or proposed agreement in which this one-ninth and eight-ninths was referred to?—A. Yes.

Q. But you have not that among your papers with you?—A. I suppose so.

Q. Are they here?—A. No; I have not any papers here, and I do not know whether I have in Washington. It may have been that my brother

showed that to me, possibly in Washington or possibly in Pittsburgh, and I may have a copy. I will look that up, but I could not say now.

Q. I will ask you to look at Exhibit 191, which is a copy, or which purports to be a copy, of an original paper that was furnished while Mr. Davis was testifying; and I want to call particular attention to this paragraph on the third page:

"The proposal is that you and I (this is written by Duke and accepted by Davis) will cause, with reasonable promptness, a merger of such United States Corporation with the Aluminum Co. of America or the corporation to which all of its property and assets will be transferred, whereby the resulting corporation will own all of the rights, franchises, and properties of both of said companies, correspondingly assuming all of their engagements, debts, and liabilities; and have authorized and made distribution of the capitalization as set forth in Schedule B hereto annexed as a reorganization of said two companies by way of such merger, the ultimate outcome being that of each class of the securities issued by the resulting corporation eight-ninths will be issued pro rata to the shareholders of the Aluminum Co. of America and one-ninth will be issued pro rata to the shareholders of such United States Corporation."

A. Yes.

Q. Do you remember that?—A. Yes; that is what was arrived at. I knew that but I never saw this; I never read any of the papers in connection with the negotiation.

Q. Just look at that letter and see if a copy of that was not furnished or shown to you.—A. No; I am quite sure I never read any of the papers connected with this. It was just sort of a tentative outline of the figures that was shown to me. I was not taking any responsibility for the carrying out of this arrangement or in the negotiation.

Q. But you remember that that was the conclusion that was reached?—A. That is what I was saying is that I never read any of the papers connected with this agreement.

Q. But you knew that of the securities of the new company one-ninth was to go to Duke?—A. Yes.

Q. Or Duke and his associates, as you said?—A. Yes.

Q. And eight-ninths to the Aluminum Co. You remember that?—A. Yes.

Q. Then do you remember that there was certain stock that was to be issued to Davis at \$5 a share?—A. You mean the employees' stock?

Q. Well, was it employees' stock?—A. There was something about making some provision. I don't know of any special stock to Davis.

Q. Did you not know there was an agreement whereby a good many shares of stock were to be issued by the new company to Davis at \$5 a share?—A. No.

Q. In plaintiff's Exhibit 239 or a copy of it, which is entitled "Agreement of merger and consolidation," which is dated July 9, 1925, between the Aluminum Co. of America and the Canadian Manufacturing & Development Co.—A. The which?

Q. The Canadian Manufacturing & Development Co., which was the new company organized, and which was signed by the Aluminum Co. of America by Arthur V. Davis, president, and by G. G. Allen, president of the Canadian Development Co. of America, and by all the directors of the Aluminum Co., including R. B. Mellon, and by all the directors of the Canadian Development Co., being Allen, Perkins & Ingersoll, there is this provision on page 9:

"There shall also be issued upon such merger and consolidation 147,262 additional shares of the common stock of the merged company, which stock shall be sold by the merged company at \$5 per share to such person or persons (including the president of the merged company) and in such amounts to each as the president of the merged company shall determine, whether or not such persons shall be stockholders in the Aluminum Co. or in the development company or in the merged company."

Did you know that; do you remember that provision in the merger agreement?—A. No. That agreement, I suppose, is the agreement which was signed on the train when we were up in Canada. It was in another car, and I went in from Mr. Duke's car; I was with him in there, and they were all together, and I signed the agreement with the others. I did not read the agreement. I supposed, of course, that it was the agreement that had been under negotiation and that in a general way I was familiar with, but I did not read it and I do not know exactly the application of that which you speak of unless it is that which I was speaking of, that there was an arrangement for a certain amount of stock that was going to be divided. I think there was something of that kind.

Q. This does not say anything about employees?—A. No. There was no discussion of anything of that kind on the train at all. It was only that this agreement had been reduced to writing and was there to be executed and we executed it.

Q. Who reduced it to writing?—A. I do not know. I suppose Mr. Davis was concerned in it, because I was relying entirely—and my brother also—on Mr. Davis.

Q. Who were the counsel of the company?—A. I can not recall whether Mr. Gordon was the counsel, but he was not on that trip up there. I do not recall that any of the counsel of the company were there.

Q. No; but did you know who drafted the agreement or looked it over as counsel in behalf of the Aluminum Co.?—A. I do not. As I say, I was depending entirely on Davis.

Q. Here were 147,262 additional shares to be issued at \$5 a share.—A. I see.

Q. Now—A. Well, as I recall, \$5 a share was about the asset value of the common shares at that time.

Q. Was it?—A. That was the book value. I knew that, but I do not recall what this part of the agreement means or what it provides.

Q. This is a copy of the paper. Would you like to see what I read and see where its relation comes in Exhibit 239?—A. Yes; I would. (Exhibit 239 handed to the witness.)

Q. That is a copy of the agreement of merger and consolidation of the companies.—A. Yes. As I said before, I never looked at this—I did not read it. They had it there and I knew of what was being done and went in and signed it.

Mr. McCLENNEN. Why don't you make sure that this is the one he speaks about? Of course there is nothing to show that.

Q. I am calling your attention to that and—A. I never examined any of the papers. Where was this particular paper executed?

Q. It was on the 9th of July.—A. What date was this trip we had; do you know?

Mr. WHIPPLE. What date was it, Mr. Park?

Mr. PARK. It was about the 9th.

Mr. McCLENNEN. Yes; but whether it included the 9th I would not dare to say.

Mr. WHIPPLE. That is on the 9th of July.

Mr. PARK. I think the photograph was taken up there on July 11, 1925.

The WITNESS. Oh, well, then; but the photograph was taken on our way down and this agreement was signed on the way up in Canada, but after we had left Montreal, I think.

Q. I do not find your signature attached at all.—A. There was something that struck me that they had this in another car or in a car that had the dining room and on the table was this and I thought—

Q. Was there something you had signed besides this?—A. I thought I had signed it. I went in there, I know, and I thought I had signed something. My brother was there also. He was with them.

Mr. McCLENNEN. Has this Mr. R. B. Mellon's signature on it?

Mr. WHIPPLE. Yes.

Mr. McCLENNEN. But not Mr. A. W. Mellon?

Mr. WHIPPLE. I do not think I ever heard of one before with Mr. A. W. Mellon's signature on it.

The WITNESS. Well, it is possible that I was not required to sign anything. I looked upon it as a matter that had been settled and they were all there and I supposed they were executing this paper.

Mr. McCLENNEN. Do the signatures on this exhibit purport to be of the stockholders or of directors?

Mr. WHIPPLE. Of directors.

The WITNESS. Well, then, I was not a director.

Q. No; you were not a director.—A. Then I did not sign it.

Q. But if you have a memory of signing something I would very much like to see it.—A. I would not be positive that I signed anything, but I was present there when they were signing the paper.

Q. I think it is quite likely that where one hundred and forty-seven thousand and odd shares were to be issued under the circumstances to persons not named but persons to be designated by the president that they might have been anxious to have had so important a stockholder sign by way of approval, but we have not found your signature anywhere.—A. Well, I do not know. I have not any recollection.

Q. Because if you have now discovered that for the first time you might wonder what became of so many shares.—A. Well, I do remember that there was an amount of stock that was to go to Davis and a lot of others there in the company. I took it as employees. I do not mean perhaps the workmen and others in that way, but those connected with the company.

Q. Did you regard Mr. Duke as one of the employees in that sense?—A. No. Of this 147,000 shares was Mr. Duke a participant in that?

Q. We very much suspect he was.—A. Well, may this not have been—

Mr. McCLENNEN. I ask to have that statement of Mr. Whipple's suspicions stricken out as not founded on any fact and not being any part of this deposition.

The WITNESS. Might it not be this: On the basis of this reorganization which was made there was a certain amount of unissued stock of the old company, you know, that had not been issued and was in the treasury? It was, you might say, treasury stock; and that this represented that treasury stock, and if it did, would not Mr. Duke be entitled to his one-ninth of that treasury stock? If that is what the explanation of it is, or something on that line—

Q. Well, you see this agreement for merger gives one-ninth to the Canadian company which included Mr. Duke and his associates.—A. Yes.

Q. And eight-ninths to the Aluminum Co.—A. Yes.

Q. Then, besides that there are one hundred and forty-seven thousand odd shares that went to Mr. Davis for him to do with as is pointed out

there, you see, to give them to such—will you let me read just what it is in order to be accurate—well, you read it.—A. "There shall also be issued upon such merger and consolidation 147,262 additional shares of the common stock of the merged company, which stock shall be sold by the merged company at \$5 per share to such person or persons (including the president of the merged company) and in such amounts to each as the president of the merged company shall determine, whether or not such persons shall be stockholders in the Aluminum Co. or in the development company or in the merged company."

Q. Yes. You see, they could all be sold to the president if he said so.—A. Well, of course, I do not know what the purport of it is at all; but what occurs to me is that unissued stock that it took to round this thing out would likely have been issued in this way and a certain proportion of it was the stock that we contemplated giving to others who were not stockholders; that is, to officers of the company and all that, and then perhaps a portion of that also to go to the stockholders and to Mr. Duke. It may have been a provision of that kind.

Q. Do you remember anything about it?—A. I do not recall anything of it; no. But I do now recall there was the question of this surplus stock and dividing a certain amount, which I said would be agreeable, to divide among those as a sort of bonus stock or something, to those people. Now, there was something of that kind in this, there was some stock used in that way.

Q. Did you get any of it?—A. I may have. I don't know.

Q. Did your brother?—A. If I got any he did also.

Q. Do you know whether there was a provision whereby Mr. Duke should get something that his so-called associates in the Canadian company or the development company did not get?—A. No; I do not know that.

Q. You see the one-ninth under that merger agreement that was to be distributed was to go to the stockholders of the development company, and that included Price and Duke and his associates.—A. Well, I did not know that, but it only occurred to me that that might be an explanation. I should not go in when I know nothing about it and make any suggestions.

Q. And eight-ninths was to be distributed to the stockholders of the Aluminum Co.?—A. Yes.

Q. Now, did the officers of the Aluminum Co. get some bonus stock besides that?—A. I do not know. If they did—

Q. Well, that was your suggestion a moment ago, was it not?—A. Well, as I say—

Q. As a theory?—A. That was a theory, because you raised something here that I knew nothing about and I was casting about in my mind to see if I could offer any explanation for it. But I do not know anything in connection with this at all.

Q. Do you want to try again on an offer of an explanation, any different from what you have?—A. I do not know of anything else.

Q. Well, when you spoke about knowing as to some bonus stock.—A. In our conversations there was a tentative suggestion that we use some of this stock for these officers and workers in the company. I just recall that.

Q. Like whom, for instance?—A. Well, Roy Hunt and Withers, and so forth, and the engineers and such.

Q. Bonuses?—A. Yes.

Q. That would be something not distributable to the stockholders of the company in general but would go as bonuses to them?—A. Oh, entirely.

Q. Some of it to the president?—A. Yes.

Q. And some to the people who had been influential in bringing about the merger, or something like that?—A. Oh, no; nothing of that kind. It was for the work that they had done.

Q. What work?—A. Work in carrying on the aluminum business. They were employees.

Q. But that would not include Duke?—A. Oh, no. But when I was suggesting a theory in regard to Duke, as I say, I ought not to suggest any of these things, but it was just a theory that possibly this treasury stock that I speak of, this stock that had never been issued, and yet it was owned by the company; I think it had been issued, but there might be something whereby Duke would have a right to a share in it.

Q. Well, why Duke rather than the Canadian company?—A. Well, I don't know that.

Q. Because you see he was acting for the Canadian company.—A. Well, then, I would say it would be the Canadian company entirely, but I would have to—

Q. Were you told that Duke had a private arrangement with Davis for the distribution of some of this stock?—A. No; I never heard of that at all.

Q. Have you ever talked with Mr. Davis about the distribution of any of that 147,000 shares of \$5 stock?—A. No; this is the first time I have thought of it, seeing it there.

Q. You will notice that that letter of April 15 which I handed you a few minutes ago was a proposal by Duke and accepted by Davis.—A. The letter of April 15?

Q. Yes; and that it was in behalf of their respective companies?—A. I see.

Q. Now, you see it begins, "I own a majority (that would be Duke) of the issued stock of the Quebec Development Co. hereinafter called the Quebec Co., a corporation organized under the companies act," etc., and then the Duke-Price Power Co. (Ltd.), which was constructing what was known as the Isle Maligne station on the Saguenay River. Then, there is a statement—will you refer to that where it says they are both acting for the respective companies? I guess we can agree that is in there. Then, on page 3, as I called your attention to it, "The proposal is that you and I will cause with reasonable promptness"—etc.—A. "And make distribution of the capitalization as set forth in Schedule B hereto annexed, as a reorganization of said two companies by way of such merger, the ultimate outcome being that of each class of the securities issued by the resulting corporation eight-ninths will be issued pro rata to the shareholders of the Aluminum Co. of America and one-ninth will be issued pro rata to the shareholders of such United States corporation."

Q. That is, there was a United States corporation to be organized, which was the Canadian Manufacturing & Development Co. finally; is that right?—A. Yes. I do not recall that I ever heard those names.

Q. Well, that represented the Duke interests, and you see the agreement was that eight-ninths should go to the stockholders of the Aluminum Co.—A. Yes.

Q. And one-ninth of the new shares to the stockholders of what we will call the Duke Co. which was to be organized representing himself and his associates. Now, what I want to ask is whether you knew that on the same day another letter was written by Duke to Davis in which Davis agreed to sell and deliver to Duke shares of the common stock of the resulting corporation at \$5 a share in sufficient number so that when taken in connection with the shares of such stock received by himself and associates through such merger will constitute 15 per cent of the total issue of the stock?—A. I see. What is that?

Q. I will ask you to just read that and see if you knew of any such letter as that being written, which was to give to the Duke Co. stockholders one-ninth just, as stated in the agreement, but to give enough more to Duke personally so that their total holdings should be 15 per cent?—A. No; I had no knowledge of this letter nor of either of these letters.

Q. Did not Duke tell you about it?—A. No.

Q. Did Davis on this trip, when you met them, the trip to Canada?—A. No; I have no knowledge of it. Does this mean that Duke and his associates obtained 15 per cent of the Aluminum Co. instead of one-ninth?

Q. No; it does not mean, as I construe it, any such thing. It means that on April 15 one agreement was made whereby Duke and his associates were to get one-ninth for distribution among Duke and his associates, one-ninth of the shares of the new company, and Davis or the Aluminum Co. were to get eight-ninths for distribution among their stockholders, but that at the same time Davis promised Duke that he should get hold of enough shares, although the way is not there pointed out, at \$5 a share to give Duke personally, not for himself and his associates, another 4 per cent of the total shares of the Aluminum Co., since you have asked me.—A. Yes.

Mr. McCLENNEN. Just note an objection to the explanation as not an accurate statement of the letter which has been shown the witness, and which I take it is the one which purports to be characterized by the description given.

Mr. WHIPPLE. Will you point out in what respect it is not an accurate statement of that letter?

Mr. McCLENNEN. Well, it would best be pointed out when the text of the letter becomes a part of the record.

Q. Were you aware of any such arrangement as that between Duke and Davis as was represented by that letter?—A. I have no recollection.

Q. Did you ever hear of any such thing as that?—A. Not to my recollection.

Q. Did you ever hear that Duke and his associates were to get for distribution one-ninth of the total issue of the shares of the new company but that through an arrangement between Davis and Duke in some way Duke was personally to get 4 per cent of the total capitalization more and in addition to the one-ninth?—A. I have no recollection of that additional percentage that you speak of.

Q. Did you consciously approve any such plan?—A. Well, I do not know; I do not know anything of it.

Q. I say did you consciously approve at the time of a certain percentage of the new shares going to Duke and his associates and through an arrangement between Davis and Duke written on the same day enough to make up 15 per cent of the shares were to be given to Duke?—A. I just—if there was anything of that said to me I have forgotten it, that is all. I have not a recollection of it.

Mr. WHIPPLE. I am going to have this paper which I used marked for identification.

(The paper was marked "Plaintiff's Exhibit No. 311 for identification, July 2, 1928, R. W. P.")

Q. Mr. Mellon, have you brought any papers at all on from Washington—correspondence or copies of correspondence?—A. No.

Q. And you have not personally looked for any among your files?—A. Not personally.

Q. Just what did you tell your secretary that you would like to have him look for?—A. It was to fix the date that Mr. Duke came to dinner.

Q. And was that all?—A. Well, I asked him for anything in connection with the Aluminum papers, to bring them to me, and he did not bring any so I—

Q. Did you ask him specifically to bring all the correspondence or copies of correspondence that you had had with either Duke or your brother or Davis in relation to this transaction with Duke?—A. I do not recall. I asked him to bring all the files for me to look at, and I just looked over them and I do not recall seeing anything there having to do with this.

Q. What I specifically asked for in the subpoena was for copies of correspondence passing between yourself and Mr. Davis, and yourself and your brother, and, I think, yourself and Mr. Duke.—A. Well, there was not any intention at all of leaving anything or not making a thorough search, but I have not any recollection of correspondence. I did not think there was anything in the files in connection with it.

Q. I was not suggesting any intentional purpose. I was merely trying to find out what instructions you gave to your secretary, and I was especially anxious to find out about it because in the case of Mr. Davis, he, trusting to his secretary or somebody else, neglected to produce in my deposition with him as far as I had gone what we regarded as a somewhat important letter or copy of a letter, and I wanted to be very sure.—A. From me?

Q. No; from Duke.—A. Oh.

Q. And I wanted to be very sure that there was no mischance in reference to your instructions to your secretary so that your secretary might have overlooked his duty in that connection.

Mr. McCLENNEN. Will you just note a motion to strike off the record Mr. Whipple's assertion as not germane to the deposition that is now being taken, not conceded fully accurate, and uncalled for so far as interrogating this witness is concerned, and irrelevant, incompetent, and immaterial and otherwise improper?

Q. Therefore I want to ask, Mr. Mellon, whether you specifically asked your secretary to look for and produce for you to bring here—A. You mean whether I was—

Q. Whether you did do it, copies of letter or letters passing between yourself and your brother either way, yourself and Mr. Davis either way, or yourself and Mr. Duke, if any did pass, on the subject matter of this merger or any of the facts which led up to it.—A. Well, before coming away at this time it did not occur to me, and I do not think there is anything, but it did not occur to me that there was anything to bring away; but it had occurred to me before in looking this up. I had the files brought in and looked over them, and I did not see anything that had to do with this transaction, and I do not think I have anything. When I go back I shall have a search made for them and see if there is anything.

Q. That would greatly oblige me, if you would.—A. Yes; I shall do that.

Q. And you see what I want particularly?—A. Yes.

Q. And that is correspondence or copies of correspondence or letters or memoranda of telephone conferences between yourself and Mr. Davis.—A. Yes; I shall do that.

Q. Yourself and your brother.—A. Yes.

Q. And yourself and Mr. Duke, and yourself and anyone else covering this period of time with reference to this merger or the negotiations which led up to it.—A. Exactly. I shall do that and bring anything, if there is anything, to your attention.

Q. Well, if you would.—A. Yes.

Q. And I should be glad to have a statement from your private secretary as to the care with which that search has been made.—A. Yes.

Q. I am not asking you to make it, and I am not intimating in the slightest that you have overlooked anything; but you see, if instructions are given to a private secretary, there might be a mistake, and that I want to avoid.—A. Yes. I am sorry that I did not go into it so I could say I had made a thorough search, but it did not occur to me to do it. But I did not recall, and I never read any of these papers at all.

Mr. WHIPPLE. As far as I am concerned, I am not going to keep Mr. Mellon any longer. That is all.

Mr. McCLENNEN. I think I have no questions. I want to put in evidence as a part of Mr. Mellon's deposition this Exhibit 311 for identification; so if you will just strike off the identification, it may become Exhibit 311.

(The paper was marked "Exhibit No. 311, July 2, 1928, R. W. P.")

By Mr. WHIPPLE:

Q. There is a question which I omitted. Did you ever hear of one George D. Haskell, of Springfield, Mass., or of any other place?—A. He is the man who has brought suit?

Q. Yes.—A. Yes. Well, I have read—not during all this time, I have not heard of him, but I have read of the suit in the papers.

Q. Against the Aluminum Co.?—A. Against the Aluminum Co., and I inquired of Mr. Davis what it meant, and he explained it to an extent.

Q. And very likely you heard of him as bringing suit against Mr. Duke.—A. Yes.

Q. Or the Duke estate?—A. Yes.

Mr. WHIPPLE. That is all.

(It is stipulated by and between the respective counsel hereto that the signing of this deposition by the witness, Andrew W. Mellon, is waived.)

EXHIBIT C

The Gulf Refining Co. of Pittsburgh has been awarded the contract to supply the bunker fuel oil requirements of the Shipping Board Merchant Fleet Corporation vessels at Charleston, Savannah, Jacksonville, and Tampa over a 3-year period, in accordance with its proposal submitted July 30, it was learned here to-day. All other proposals, including bids of several oil companies for furnishing requirements at Boston, were rejected by the Shipping Board.

Terms of the contract call for supplying the estimated maximum requirements of 100,000 barrels per month at the four South Atlantic and Gulf ports for 93 cents per barrel at Charleston, Savannah, and Jacksonville, and for 90 cents per barrel at Tampa during the 3-year period commencing January 1, 1929. These fixed prices are for terminal delivery with an additional charge of 5 cents per barrel for barging.

HOLDS ALL CONTRACTS

With its contract for furnishing oil requirements at these ports, the Gulf Refining Co. now will supply about 8,000,000 barrels annually for Government vessels at all Atlantic and Gulf ports, since on July 10 it was awarded the first contract under the new 3-year period terms devised by the Shipping Board for fulfilling the needs at New York, Philadelphia, New Orleans, Galveston, and Port Arthur. The Pittsburgh company's contract on this calls for oil supply at an average rate of 92 cents per barrel for terminal delivery at New York and Philadelphia, with still lower average fixed prices at the other ports.

By virtue of these two contracts the Gulf Refining Co. will supply all oil requirements for Government vessels at Atlantic and Gulf ports. The maximum estimated requirement of the Government vessels at these ports is approximately 875,000 barrels monthly.

Bids for supply requirements at Boston will not be reinvented, it was announced by the board. The bunkering of Government vessels making port at Boston will be shifted to New York or Philadelphia.

[S. Rept. No. 7, pt. 5, 71st Cong., 1st sess.]

ELIGIBILITY OF HON. ANDREW W. MELLON, SECRETARY OF THE TREASURY

Messrs. BORAH, KING, and DILL, from the Committee on the Judiciary, submitted the following views (pursuant to S. Res. 2):

The committee, as we understand, is not in disagreement in any respect except as to question 2 submitted by Senate Resolution 2.

The controversy, or differences of view, arise over the construction to be given to section 243, Title V, of the laws of the United States. This section reads as follows:

"No person appointed to the office of Secretary of the Treasury, or Treasurer, or Register, shall, directly or indirectly, be concerned or interested in carrying on the business of trade or commerce, or be owner in whole or in part of any sea vessel, or purchase by himself, or another in trust for him, any public lands or other public property, or be concerned in the purchase or disposal of any public securities of any State, or of the United States, or take or apply to his own use any emolument or gain for negotiating or transacting any business in the Treasury Department, other than what shall be allowed by law; and every person who offends against any of the prohibitions of this section shall be deemed guilty of a high misdemeanor and forfeit to the United States the penalty of \$3,000, and shall upon conviction be removed from office and forever thereafter be incapable of holding any office under the United States; and if any other person than a public prosecutor shall give information of any such offense upon which a prosecution and conviction shall be had, one-half the aforesaid penalty of \$3,000, when recovered, shall be for the use of the person giving such information."

The view we entertain is that a person may be interested in the business of trade or commerce—may, for illustration, be a stockholder in a corporation engaged in the business of trade or commerce—without becoming ineligible to the office of Secretary of the Treasury. His interest alone or his ownership of stock alone does not render him ineligible under this statute.

It seems to be contended by some that the statute should be construed as if the statute read:

"No person appointed to the office of the Secretary of the Treasury * * * shall, directly or indirectly, be concerned or interested in the business of trade or commerce."

It is argued that the words "carrying on" may be treated as surplusage, to be given no meaning, or force, or effect; a bad example of tautology. We do not so construe the statute. The words "carrying on" must be construed in connection with the other language in the section. The statute as a whole must be construed as a whole,

if under any rule of reason you may do so. Under no rule of construction with which we are familiar are we justified in excluding this language as having no meaning or significance at all. The language was evidently placed in the statute for a purpose. The framers evidently had some object in mind, and, therefore, it should be given consideration in construing the statute. If the framers of the statute had desired to exclude everyone from this office who was interested in the business of trade or commerce, the plain, simple language by which that would have been accomplished would have been as follows: "No person appointed to the office of Secretary of the Treasury * * * shall directly or indirectly be interested in the business of trade or commerce." But evidently they did not intend to exclude everyone who might have an interest in such businesses. Evidently they intended to exclude only those who were directly or indirectly concerned or interested in "carrying on" the business, or who participated in managing or running the business, or in counseling and advising in reference to the management of the same.

We have not found any decisions of the courts construing this statute or a statute identical in terms. This leaves us to search for construction among decisions which, while not decisive or controlling, may be deemed instructive or persuasive. In addition to such decisions as may be found along that line, we are permitted to consider such practical constructions as may have been placed upon the statute by those departments of the Government having to do with the execution or maintenance of the statute.

The laws of the State of New York at one time provided:

"That no person shall be appointed to the office of justice of the court of special sessions unless he shall be a resident * * * no such justice shall receive to his own use any fees or perquisites of office; nor shall any such justice hold any other public office or carry on any business."

The words "carry on" were construed by the supreme court (appellate division) of that State. The court said:

"He can hold no other public office, can carry on no business, but is required to devote his whole time and capacity to the duties of his office. In the Standard Dictionary to 'carry on' is defined: 'To keep up; keep going; maintain; manage.' And in the Century Dictionary: 'To manage or be engaged in; continue to prosecute; keep in progress.' And I think to bring a person within the prohibition against carrying on a business there must be such relation to the business as imposes upon the person charged an obligation or responsibility to it, a responsibility for its management, the assumption of its control, or an obligation to perform duties in relation to it. The term 'to carry on a business' implies such a relation to the business as identifies the person with it and imposes upon him some duties or responsibility with its management." (Matter of Deuel, Supreme Court, appellate division, vol. 127, p. 632.)

The same principle was announced in the case entitled "Matter of Levy." (Supreme Court, appellate division, vol. 198, p. 326.) We quote from the syllabus of the case:

"The term 'to carry on a business' implies such relation to the business as identifies the person with it and imposes upon him some duty or responsibility in connection with its management."

In the above case the respondent held 10 per cent of the capital stock of a business corporation.

We do not refer to the foregoing opinions as conclusive upon the question here, but they are persuasive. The court clearly holds that carrying on a business has a significance and a meaning wholly aside from a mere interest in the business, such as that of a stockholder; that it implies much more and something different from an interest in the business or concern in the business. It must be concluded from these cases that the court was of the opinion that the ownership of stock is not sufficient to constitute a violation of the statute which provided against having an interest in carrying on a business. In other words, "to carry on a business" there is an obligation, a responsibility, an authority with the one that is in no sense a part of the other, a mere interest in the business.

The violation of law, however long continued, and regardless of the high standing of the parties, will not, of course, change the law nor exempt those who repeat the violation from the penalties of the law. But when a construction of the law is involved and the meaning is in doubt it has always been considered proper to take into consideration the practical construction placed upon it by those brought in touch with it. And even acquiescence upon the part of those having responsibility in the acts or conduct of parties operating under the law may be considered.

The records will bear out the contention that never has a mere interest or the mere ownership of stock in the business of trade or commerce been regarded as rendering a party ineligible to the office of Secretary of the Treasury. From Alexander Hamilton to the present incumbent, Secretaries of the Treasury have been interested or have been stockholders in corporations engaged in the business of trade or commerce. We do not know, because the records are not available, whether all Secretaries have been so interested. But we do know that a great number of them have been. Secretary after Secretary, men of the highest and most sensitive regard for the integrity of official conduct, have

been holders, and in some instances large holders, of stock in corporations engaged in trade or commerce. This fact has been known to the different departments of the Government, including the House and the Senate. Such interests have been held without challenge from anyone as to the eligibility or fitness of the incumbent. Thus by long practice has a construction been placed upon the statute which we are entitled to consider in our effort to arrive at the true meaning of the law.

The Supreme Court of the United States, in the Mid West Oil case (236 U. S.), in passing upon the power of the Executive to make temporary withdrawals of public land, took into consideration the silence of Congress as to the practice of the Executive and the legality of such withdrawals. Reasoning upon the same principle, it will throw some light upon the proper construction of this statute to take into consideration the acts of the Executive, the different Secretaries of the Treasury, in conjunction with the acquiescence if not affirmative approval of the Congress.

When we take into consideration, therefore, the language of the statute itself, distinguishing, as we think it does, between an interest in and the carrying on of the business, when we take into consideration the practical construction placed upon the statute through these years, together with the opinions of the courts in cases involving the construction of statutes of a similar import, we have no doubt that a fair and reasonable construction of the statute does not deny an incumbent the right to hold stock in a corporation engaged in trade or commerce.

It should be borne in mind also that when Mr. Mellon was being considered for the office of the Secretary of the Treasury he took advice of able counsel relative to the meaning of the statute. These lawyers, including ex-Senator Knox, were of the opinion that an interest in the business or the holding of stock did not render Mr. Mellon ineligible to the office. It was after careful consideration of all the facts and of the law that Mr. Mellon received his appointment, was confirmed by the Senate, and has since been continued by two subsequent Presidents in the Secretaryship of the Treasury. He has served eight years, and during that time the fact that he was a stockholder in large corporations engaged in trade or commerce was known to all, known to the different departments of the Government, known to the Senate and House of Representatives, the executive department, including the legal department of the Government.

The most noted incident arising under this law is that in reference to the appointment of A. T. Stewart, the great dry-goods merchant in New York City. President Grant named Stewart Secretary of the Treasury. He was promptly confirmed. Objections were made immediately thereafter based upon his ineligibility under the act now before us for construction. Stewart immediately sought legal advice. He was advised that as he was heavily interested and actively conducting a large business in trade and commerce he could only avoid the statute by retiring from the business. Stewart stated that it would be impracticable, if not impossible, to get out of the business inside of five years. The President sought a joint resolution exempting Stewart from the operations of the law and sent a message to Congress to that effect. But there was objection to the resolution; also objection to repealing the law. In fact, it now developed that there were objections to Stewart upon the part of the high protectionists, Stewart being a free trader. Some one proposed that Stewart enter into an agreement to give the profits of his business to charity—an irrelevant suggestion from the standpoint of the law. It was also claimed that Stewart had constantly large claims for heavy drawbacks on duties. On March 8, in an editorial in the New York Times, it was said:

"The most direct and unobjectionable mode of meeting the difficulty would be for the newly appointed Secretary to retire from the commercial business which brings him within the prohibitions of the law; but in Mr. Stewart's case this seems to be impossible. His business is so extensive and so complicated that, as he himself is reported to have said, it would take him five years to withdraw from it."

Finally, on March 9, 1869, Stewart sent in his resignation. In his resignation, among other things, he said:

"The business relations of my firm in its connection with others largely interested in their continuance are such that they can not be severed summarily, nor can my interest in it be wholly and absolutely disposed of without great embarrassment and loss to those with whom I have been connected."

Manifestly, Stewart under any construction of the law was ineligible. He had the largest trade in dry goods in the United States. He was in the immediate, active management of the business, giving it his personal attention and direction. As he felt he could not justify getting out of the business, he resigned.

But while an interest or the holding of stock will not alone render a person ineligible to the office the terms of this statute are such as to exact from the holder of such interests or stock the most scrupulous observance of the difference between an interest or ownership of stock and the management or carrying on of the business. Undoubtedly the purpose of the law was to divorce the Secretary of the Treasury from all attachment to his private interests, to the detriment of the public business. Responsibility for his private interests were not to be permitted to conflict with the responsibilities attaching to his public

office. His time, his mind, his concern were to belong to the public, to his office. The distinction between the ownership of stock and concern or interest in carrying on the business is so narrow that it can only be measured in many instances by a keen sense of honor and propriety upon the part of the official.

If he counsels, or advises, or directs—although he may not be a director or officer of the corporation—still he would, it seems to us, be directly or indirectly engaged in the business of carrying on trade or commerce. And in considering these matters, one would have to take into consideration also the amount and the extent of his interest in the business. This may seem to render the law antiquated and unreasonable under modern business conditions. It may be contended that such an interpretation of the law would make it difficult to find a competent party to fill this office. But the answer to all such contentions is at hand and is full and complete—amend or repeal the law.

Our personal views are that the law is sound in principle, but it is poorly expressed in the light of modern methods of carrying on business. As it is now written, it is susceptible of abuse, both by those who hold the office and by those who would criticize the official. The law should be made plain by specifying what interests, if any, the official may have and what constitutes "carrying on the business." The principle and the purpose of the law no doubt have a wise foundation. But it ought to be adapted in its language to present circumstances and conditions. It should be expressed in language which would constitute a clear rule of guidance and conduct for the official and also a definite measure by which the public could gauge and protect its interests.

We do not consider that such facts and circumstances have been placed before the committee in detail as would permit us to form an opinion whether as a stockholder Mr. Mellon has actually counseled or advised or been interested in the carrying on of the business in which he is a stockholder. We therefore content ourselves, as we feel we must, to a construction of the law as we understand it.

WM. E. BORAH.
WILLIAM H. KING.
C. C. DILL.

[S. Rept. No. 7, pt. 6, 71st Cong., 1st sess.]

ELIGIBILITY OF HON. ANDREW W. MELLON, SECRETARY OF THE TREASURY

Mr. ASHURST, from the Committee on the Judiciary, submitted the following individual views (pursuant to S. Res. 2):

The Senate has no power to institute and commence impeachment proceedings; that power is by the Constitution committed to the House of Representatives.

A concise discussion of this question will be found by reading the remarks of Hon. GEORGE W. NORRIS, Senator from Nebraska and chairman of the Senate Committee on the Judiciary, delivered in the Senate on March 5, 1929, when this resolution was considered. The substance of what Senator NORRIS then said is as follows:

"Mr. NORRIS. Mr. President, * * *. The Constitution of the United States confers exclusive jurisdiction upon the House of Representatives to impeach officials who are guilty of misdemeanors or high crimes. The House would have to decide, the same as a prosecutor would have to decide in a case in court, whether the defendant, or whether, as in this case, the respondent, was guilty of a misdemeanor. The Senate ought to hold itself aloof, because in case the House should impeach it would become necessary for the Senate to try the impeachment.

"It seems to me, having exclusive jurisdiction of such trials, we ought not to consider this matter, first, because we have no impeachment jurisdiction, and second, we should not express in advance an opinion, either as to fact or law, on the action of a public official who, under the Constitution, is liable to impeachment by the House and trial by the Senate.

"To me it seems perfectly clear that that part of the resolution ought to be eliminated. Suppose, for instance, we should agree to the resolution and the Judiciary Committee should report, after looking up the law, that in its judgment the Secretary of the Treasury had not violated any law, and let us suppose that the Senate approved that decision. We would have gone on record then officially upon a question that, so far as any effect is concerned, we would have no jurisdiction to try until an impeachment proceeding came regularly before us.

"Suppose that afterwards the House began impeachment proceedings against Mr. Mellon and found that he was guilty and impeached him and the articles of impeachment came to the Senate as a court to try Mr. Mellon. We would have already gone on record on the merits of a question upon which, regardless of how we should find, we could not act unless the official were impeached and we should be trying him for a violation of the law. It would at least put the Senate in rather an embarrassing position.

"Suppose we find the reverse of what I have suggested and the Judiciary Committee holds, upon hearings, that Mr. Mellon is guilty and that he has violated the law, what are we going to do about it? We can not try him. We can not both impeach him and try him. We are at the end of the string so far as the Senate is concerned. We have held that he is not guilty. We have in reality taken the place of the House of Representatives."

When a tribunal discovers that it has no jurisdiction the only order it may then properly enter is the order declaring that it has no jurisdiction.

Respectfully submitted.

HENRY F. ASHURST.

FARM RELIEF

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 1) to establish a Federal farm board to aid in the orderly marketing, and in the control and disposition of the surplus, of agricultural commodities in interstate and foreign commerce.

Mr. SHORTRIDGE. I submit three proposed amendments to the pending bill and ask that they be printed and lie upon the table.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. FLETCHER. Mr. President, I ask to have inserted in the RECORD a telegram from a committee of fifty of Florida Citrus Growers Clearing House Association, with reference to the exclusion of fresh fruits and vegetables from the pending measure.

The VICE PRESIDENT. Without objection, it is so ordered.

There being no objection, the telegram was ordered to lie on the table and to be printed in the RECORD, as follows:

WINTER HAVEN, FLA., May 8, 1929.

Senator DUNCAN U. FLETCHER,

United States Congress, Washington, D. C.:

Whereas there is pending in the Congress of the United States an act known as the Federal farm board act and said bill, as introduced, has been passed by the House of Representatives and is now pending in the Senate; and

Whereas said act, as passed by the House of Representatives, enables the State of Florida and the citrus industry to come under the full provisions of the act; and

Whereas there has been introduced in the Senate an amendment to said act, which, if adopted, would exclude fruit and vegetables from the benefits of the law if passed; and

Whereas the principal industry in Florida, as well as California and many Southern and Southwestern States, is fruit and vegetables: Therefore be it

Resolved, That the advisory committee of fifty of the Florida Citrus Growers Clearing House Association voice their unalterable opposition to such an amendment and that we request Senators TRAMMELL and FLETCHER and the four Congressmen in the House of Representatives from Florida to vigorously oppose and prevent, if possible, the adoption of such amendment to the said Federal farm board act; and be it further

Resolved, That a copy of this resolution be mailed to President Herbert Hoover, Secretary of Agriculture Arthur M. Hyde, United States Senators PARK TRAMMELL and DUNCAN U. FLETCHER, and Representatives HERBERT J. DRANE, R. A. GREEN, TOM A. YON, and RUTH BRYAN OWEN.

COMMITTEE OF FIFTY OF FLORIDA CITRUS GROWERS
CLEARING HOUSE ASSOCIATION.

Mr. COPELAND. I ask that the amendment to the pending bill which I send to the desk may be read.

The VICE PRESIDENT. The amendment will be read.

The CHIEF CLERK. The Senator from New York offers the following amendment: On page 25, and immediately following subparagraph (d) it is proposed to insert a new subparagraph to read as follows:

(e) As used in this act, the words "agricultural commodity" mean an agricultural commodity which is not a fruit or a vegetable: *Provided, however*, That this subparagraph shall not apply to the provisions of section 9.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from New York.

Mr. COPELAND. Mr. President, there have been innumerable telegrams received by Members of the Senate relating to the inclusion or the exclusion, as the case may be, of perishables from the pending bill. There are several thoughts expressed in those telegrams. One group desires that all fruits and vegetables be excluded; another group desires that apples and pears be excluded.

There are those who wish to have every other reference to the possibility of the formation of any governmental body relating to perishables excluded from the bill. I have in mind section 9, on page 17, which permits the organization of clearing-house associations.

Mr. McNARY. Mr. President—

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Oregon?

Mr. COPELAND. I yield.

Mr. McNARY. I did not gather what the Senator said regarding clearing-house associations. Does the amendment pro-

pose to take fruits and vegetables out of the operation of the clearing-house section?

Mr. COPELAND. I said that one group desired the exclusion of fruits and vegetables not alone from the body of the bill but also from section 9, which provides for clearing-house associations.

I assume that the purpose of this bill is to give relief to the farmers of the country. Its purpose is to help agriculture, but certainly it is not intended to damage any of the other industries of America.

I wish to say in all seriousness, Senators, that I have gone far as a Senator from the State of New York in voting for the modified debenture plan. I did so because I think that my city and my State can not prosper unless the farmers of America prosper. I did what I did in all good conscience because, in the first place, the farmers need aid, and, in the second place, in my judgment, my State is benefited when the farmers of America are prosperous; but I should be very sorry indeed to have the Senate now adopt a measure which would be of positive damage to many great industries of my State.

The charge has been made on the floor of the Senate that those who are in opposition to the inclusion of fruits and vegetables are commission merchants; that they are not growers of these products but are the men who are engaged in the industry of receiving and marketing the products. I shall concede at once that that is true, but that is not all the truth. I find in my State that many growers of fruits and vegetables are opposed to the inclusion of perishables in the bill.

Mr. REED. Mr. President, will the Senator yield for a question?

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Pennsylvania?

Mr. COPELAND. I yield to the Senator.

Mr. REED. The farming industry in the Senator's State is very much like that in Pennsylvania, and I am wondering whether the Senator has not, as I have, received a very large number of protests from the dairy industry, asking that dairy products be similarly excepted from the bill?

Mr. COPELAND. Oh, yes; I have had many.

Mr. REED. They are not from brokers or dealers but from the actual dairymen themselves.

Mr. COPELAND. From the Dairymen's League, for instance. To my mind, the Dairymen's League is the greatest cooperative organization in America. It was organized by farmers; it is managed by farmers, and has been successfully operated by farmers; and they, as the Senator from Pennsylvania suggests, are in bitter opposition to the bill.

Mr. HEFLIN. Mr. President—

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Alabama?

Mr. COPELAND. I yield.

Mr. HEFLIN. What reasons do the truck farmers and dairy people give for wanting to get out from under the provisions of the bill?

Mr. COPELAND. I shall undertake in the course of my brief remarks to tell what reasons they give.

Mr. NORRIS. Mr. President—

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Nebraska?

Mr. COPELAND. I do.

Mr. NORRIS. Before the Senator goes into that, I think I ought to ask a question which was suggested to me by the question submitted by the Senator from Pennsylvania [Mr. REED] about the dairymen.

The Agricultural Committee during the past several years have had before them on various bills, including this one, representatives of dairymen's organizations. I should like to preface what I say by suggesting that I have been impressed, as I think other members of the committee have, with the intelligence and the wisdom and, I think, the fairness, of these dairymen's representatives. I think we will all agree that they are very high-class men, conscientious and honest in what they are trying to accomplish; but I should like to call the attention of the Senator from New York and the Senator from Pennsylvania to the fact that the head of the Dairymen's Association appeared before the Agricultural Committee on this particular bill, favoring it. He did advise—and I think his advice in that respect was wise—that we strike out of the bill these advisory committees. I have such a motion pending, but I do not want to press it if the friends of the bill feel as though it ought to be kept in. This representative, however, as I understood his testimony, was in favor of the particular bill we had before us if we were to strike out of it—and I think he would be in favor of it even if we did not—what appeared to him and what appears to me to be a useless and expensive appendage.

Mr. REED. Mr. President, will the Senator from New York yield to me to reply?

Mr. COPELAND. I yield to the Senator from Pennsylvania.

Mr. REED. In passing on questions like this I think we all ought to try, at least, to look at them from the national standpoint, and not be too much controlled by what we get in the way of advice from the people in our home States. Nevertheless, we are all interested in knowing the attitude of our own farmers on this national proposition. I do not think I have had half a dozen letters from Pennsylvania farmers in favor of either the House bill or the Senate bill. I have had hundreds of letters opposing both bills. I do not know the name of the gentleman to whom the Senator refers—

Mr. NORRIS. If the Senator will permit an interruption there, I will give him the name.

Mr. REED. I am afraid it would not help me, anyway; but I do not recall any communication from any dairymen that was not to the effect that all they wanted was to be completely left out of the operation of the bill.

Most of them made no objection to the wheat farmers and the corn growers of the West having this relief if Congress saw fit to give it to them, but for themselves there is practically a unanimous expression of opinion from the farmers of Pennsylvania that they want to be left out of it, and they urge me to do my best to have the bill modified so that they will be wholly left out.

Mr. FLETCHER. Mr. President, may I interrupt the Senator?

The PRESIDING OFFICER (Mr. SACKETT in the chair). Does the Senator from New York yield to the Senator from Florida?

Mr. COPELAND. I do.

Mr. FLETCHER. I merely wish to suggest that under the provisions of the bill it is purely optional whether they come in or not.

Mr. REED. That is what is always replied; but they say that they prefer to do business as individualists. If they continue that way, and do not go in under the terms of the bill, they will be hopelessly handicapped in competition with these Government-aided cooperatives in the West.

Mr. BROOKHART. Mr. President—

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Iowa?

Mr. COPELAND. I do, although after a while I should like to make some of my speech myself; but the interruptions are so effective that I gladly yield.

Mr. REED. The Senator is so generous in lending his time that I wanted to advance that thought and this further thought and then sit down: Has the Senator considered broadening his amendment so as to take out not only vegetables and fruits but also dairy products?

Mr. COPELAND. Yes; I am glad to do that. I want to get out of it all the products I can in this line and I will accept the suggestion of the Senator. I will back it up in a moment by the support of many milk producers in my own State.

Mr. BROOKHART and Mr. BLAINE addressed the Chair.

The PRESIDING OFFICER. Does the Senator from New York yield; and if so, to whom?

Mr. COPELAND. I yield first to the Senator from Iowa.

Mr. BROOKHART. On the proposition just suggested by the Senator from Pennsylvania that it is optional whether these people go into this arrangement or not, and if they do not go in and others do go in it will benefit the price and the market, I can not see where that is going to do any damage to those who stay out. In fact, it will be just as beneficial to those who stay out as to those who go in. The ones who stay out have nothing to pay. That has been one of the troubles about it.

Mr. COPELAND. Let me say to the Senator from Iowa that we have gone a long way to help the grain enterprise that he has in mind. If there are certain groups represented in Pennsylvania and New York and other States that wish to stay out, bear with us a little while until we put the facts before you. See if we can not induce you to exclude these particular products from the operation of the bill.

Mr. BROOKHART. I am not objecting to the Senator's putting the facts before us, but I was giving him my view of the situation after they are before us.

Mr. BORAH and Mr. BLAINE addressed the Chair.

The PRESIDING OFFICER. Does the Senator from New York yield; and if so, to whom?

Mr. COPELAND. I yield first to the Senator from Idaho.

Mr. BORAH. As I understand the bill, and as suggested by the Senator from Florida [Mr. FLETCHER], it is optional with producers now as to whether they shall go in; but if we adopt the Senator's amendment it would prevent those from going in

who desire to go in. That seems to me a rather selfish position to take—that when a person has an option as to whether he will go into the scheme or not, he wants to deny others the privilege of going in. He may stay out if he wishes to, but he wants such an amendment as will make it impossible for those to go in who want to go in.

Mr. COPELAND. I assume that the Senator from Idaho is interested in potatoes, because, of course, next to the New York potato, the best potato in the world is the Idaho potato, especially baked.

Mr. KING. Except the Utah potato. [Laughter.]

Mr. COPELAND. Except the potato of all the other States, I assume.

Mr. WALSH of Montana. Will the Senator except Montana also? [Laughter.]

Mr. COPELAND. I think I will say that the New York potatoes are the only good potatoes.

Mr. SIMMONS. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from North Carolina?

Mr. COPELAND. I do.

Mr. SIMMONS. I am interested in potatoes also, and although the Senators from Montana and Idaho, as I understand, would probably be willing that they should be dropped, I am not. I want potatoes included.

Mr. BORAH. No; I have not said anything about potatoes being dropped. I am opposed to dropping them.

Mr. SIMMONS. Then I misunderstood the Senator.

Mr. BLAINE. Mr. President—

Mr. SIMMONS. I was wondering whether the Senator from New York is not more interested in perishable fruits in his State than he is in nonperishable vegetables. The potato can not be classed as a perishable vegetable. By proper treatment it can be preserved for a very long period of time.

All over this country potatoes are raised. They are raised extensively in the South Atlantic seaboard States, and those potatoes are largely exported. Nearly \$4,000,000 worth of potatoes are exported annually. The producers of this vegetable in my State have communicated with me, and have expressed an earnest desire to be included in this bill. I was just speculating as to whether the Senator from New York was particularly interested in excluding potatoes. I know that he is probably interested in excluding fruits, but I hope he is not interested in excluding potatoes or any other nonperishable vegetable.

Mr. COPELAND. I may say, in reply to my friend from North Carolina—who always gives serious thought to these matters—that I have thought that potatoes should be left in the bill—

Mr. SIMMONS. I am glad to hear that.

Mr. COPELAND. Take what occurred last fall: I think I said the other day in the Senate that I had an appeal made to me—because I talk over the radio occasionally about foods—by a farm bureau in Pennsylvania, begging me to talk about potatoes. We had an enormous crop, and as a result of it the prices were very low. That is a product which can be handled, a product which is strictly nonperishable, and therefore might come under the operation of the bill as we have it before us.

I feel the same way about grapes. The Senator from California [Mr. JOHNSON]—

Mr. SIMMONS. Before the Senator takes up the subject of grapes, would he not be willing to amend his amendment by saying "nonperishable vegetables"?

Mr. COPELAND. I am willing to have some language added to the amendment which will make it clear that so far as potatoes are concerned my amendment shall not apply.

As I started to say about grapes, almost all of the letters and telegrams I have had from my State wishing to have perishables left in the bill came from grape growers. The grape industry has developed remarkably since prohibition came into force. With the deprivation of alcohol there seems to be something about the grape which makes it popular with people. I do not undertake to go into the reasons for it, but I can see why grapes might be excluded.

But let us go back to the question of milk.

The Senator from Pennsylvania [Mr. REED] called attention to the attitude of the dairymen. Let me say, Mr. President, that I know about the operation of the Dairymen's League. One reason why I have been enthusiastic for farm relief since the measure first came up is because I have seen what the Dairymen's League has accomplished for the dairy farmers. I voted three times for the McNary-Haugen bill, much to the disgust of some papers in my city and State. The charge was made that it would not be possible for the farmers to organize and show business sense enough to deal with this great problem of American agriculture. I knew better, because this great organization, the Dairymen's League, which has 70,000 mem-

bers in my State, has demonstrated the possibility of dealing with its problem in a very businesslike way. But I want you to know that the Dairymen's League is opposed to this bill and to the inclusion of dairy products in it.

I have here a number of telegrams from different branches of the Dairymen's League. I want to refer to them because I want the RECORD to show exactly where that organization stands.

Here is a letter from the Port Leyden Dairymen's Association, of Lewis County, N. Y. They are opposed to the whole bill, unanimously opposed to the bill as passed by the House. Of course, I assume that when they learn that the debenture provision is to be in it, they may have a change of heart.

Here is a telegram calling attention to the fact that the National Milk Producers' Association is opposed to the bill. Here is a telegram from the Dairymen's League, after a meeting of the organization of the counties of Livingston, Monroe, Ontario, and Wayne, in my State, stating that they take the same position of opposition; likewise the Dairymen's League of Northeast Pennsylvania. I do not know how that got into my list of telegrams. It was sent to me by mistake, undoubtedly. Here is a message from the Mayville Dairymen's Association, from the Cattaraugus County Dairymen's Association, representing 2,000 dairymen, and so on.

I am here to say that the dairymen from Middletown, Ripley, and Richmondville, and from every other section of my State are in opposition to being included in this bill.

Mr. NORRIS. Mr. President—

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Nebraska?

Mr. COPELAND. I yield.

Mr. NORRIS. I wanted the Senator to permit me to correct what I stated when I interrupted him just a few moments ago. I left the impression, and I was under the impression, that the representative of the Milk Producers' Association was not opposed at least to the Milk Producers' Cooperative Association remaining in. I find, in looking the matter up, that I was wrong in that.

Mr. COPELAND. That is the first time I have known the Senator to be wrong, and I am very sure he is to be excused from being wrong once.

Mr. HEFLIN. Mr. President, before the Senator goes further into the argument, I want to ask him if it is his purpose and his desire to fix the matter so that none of these people can get in even if they want to.

Mr. COPELAND. That is the thing I have in mind—that they desire to be absolutely excluded from the operation of the bill.

Mr. DILL. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. DILL. I want to point out to the Senator that I think the chief weakness of this bill in regard to fruits and vegetables is to be found in the provision which allows the board the discretion of granting a certificate for a stabilization corporation whenever the board desires to do so. If the measure required that a certain percentage—say 75 per cent, or even a majority—of those engaged in an industry were required to apply to come under the stabilization corporation, there would be much to be said for the position of those who support the proposition; but under the present provision of the bill we are left absolutely at the mercy of this board. That is the danger of the situation.

Mr. McNARY. Mr. President—

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Oregon?

Mr. COPELAND. If the Senator will bear with me a moment, the Senator from Washington has put his finger exactly upon the point. If the board at its pleasure can organize an association to undertake to deal with a given product, we will say like apples, then all the existing institutions which have invested large sums of money in buying up a crop, in storing it, and preparing it, do not know at what moment the Federal board will go into the business and throw upon the market at the wrong time products which will crush the market and destroy these industries. That is the point the Senator makes, and it is well put.

Mr. DILL. Mr. President, the growers or producers of certain products of a single State must find themselves in trouble. They may never have had a cooperative association in the past, they may proceed to organize one, and make representation to the board that they are entitled to be allowed to have a stabilization corporation. If they are able to induce the board to grant them a certificate, then those engaged in that industry in every other section of the country must compete with a Government-aided corporation or find itself forced to go in.

Mr. WALSH of Montana. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. WALSH of Montana. I shall offer an amendment, a copy of which is printed and lies on the desk, which will relieve the situation referred to by the Senator from Washington to some extent. It reads as follows:

The board shall adopt rules specifying the qualifications requisite to entitle a cooperative association to join in an application for the certification of a stabilizing corporation and all cooperative associations possessing such qualifications shall be permitted to join. And any such cooperative association shall, at any time, upon application, be entitled to admission to membership in such stabilization corporation upon such terms as the board may from time to time prescribe.

So that every association will be given an opportunity in the first place to join if it desires to do so, or, if it does not join at that time, or comes into existence later, it will be entitled to go into the stabilization corporation upon such terms as are prescribed. I understand perfectly well that that does not quite meet the point raised by the Senator from Washington. As I understand, he wants to restrain the board from certifying any stabilization corporation unless the request comes from a specified proportion or percentage of the cooperative associations engaged in the particular line of marketing, but it will help the situation, because if my amendment should be adopted, any association having the requisite qualifications which desired to join might join upon application.

Mr. DILL. Mr. President, will the Senator from New York yield?

Mr. COPELAND. I yield.

Mr. DILL. With all due regard to the opinion of the Senator from Montana, I think that his amendment does not meet my objection at all. My objection is not to the fact that any properly qualified cooperative may join; my objection is that cooperatives in a certain part of the country may be given a certificate to form a stabilization corporation while the great body of the cooperative associations in the country that do not want any Government interference will then be forced to compete with a Government-aided corporation, or be forced to join in the stabilization corporation.

Mr. CARAWAY. Mr. President, will the Senator permit me to ask the Senator from Washington a question?

Mr. COPELAND. I yield.

Mr. CARAWAY. If the cooperative association going in is so much helped that it can drive out people who do not go in, why is it not a wise provision to let all of them go in?

Mr. DILL. Because, if I may be permitted by the Senator, the very formation of the corporation as to perishable products will necessitate its buying those perishable products at such a price that it can store them and hope to make a profit, and that will lower the price temporarily, and perishable products can not stand the same sort of treatment that is given to the more staple products of the farm.

In addition to that, the conditions in a certain community where the producers are not well financed, where they have no help at the present time in the way of organization, might make it desirable for them to have a stabilization corporation, while that part of the industry which is well financed, which has its marketing organization perfected throughout the world, as we have in the apple industry, would be desirous of avoiding any Government interference.

The PRESIDING OFFICER. The Senate will receive a message from the House of Representatives.

PRINTING OF TARIFF ACT OF 1929

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House had adopted a concurrent resolution (H. Con. Res. 4) to print the tariff act of 1929 as reported to the House of Representatives, together with the report thereon, as a House document (H. Doc. No. 15), in which it requested the concurrence of the Senate.

Mr. MOSES. Mr. President, will the Senator from New York yield to me?

Mr. COPELAND. I yield.

Mr. MOSES. I would like to ask the Chair to be good enough to lay down the message just received from the House of Representatives.

The PRESIDING OFFICER. The Chair lays before the Senate a concurrent resolution from the House of Representatives, which will be read.

The Chief Clerk read as follows:

Resolved by the House of Representatives (the Senate concurring), That the bill (H. R. 2667) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes, as reported from the Committee on Ways and Means to the House of Representatives on May 9, 1929, together with the text of the committee report, be

printed as a House document with the bill matter showing the existing tariff law in roman type; the part proposed to be omitted inclosed in brackets, and the new legislation recommended by the committee in italic type, and that 18,500 additional copies of the publication be printed, of which 12,000 shall be for the use of the House document room; 5,000 for the Senate document room; 1,000 for the Committee on Ways and Means of the House, and 500 copies for the Committee on Finance of the Senate.

Mr. MOSES. I move the concurrence of the Senate in the resolution.

Mr. ROBINSON of Arkansas. I assume that it will afford the copies required for a study of the bill, both by Senators and Representatives, and also by citizens who are interested.

Mr. MOSES. Yes, Mr. President; the subject has been very thoroughly discussed before the Printing Committees of both the House and the Senate.

Mr. OVERMAN. I should like to inquire of the Senator whether it will include the minority report?

Mr. MOSES. I understand so. I wish the resolution might have provided also for an index to the bill, but that has not been provided for, and I understand that an index has not been prepared.

Mr. ROBINSON of Arkansas. Does not the Senator think that the resolution could be held up a short time and that provision for an index could be incorporated in it?

Mr. MOSES. I wish very much that that might be done.

Mr. ROBINSON of Arkansas. I agree with the Senator that a bill of the volume of the tariff bill would be difficult to study without an index.

Mr. MOSES. I see the chairman of the Committee on Finance now in the Chamber, and no doubt he can throw some light upon the subject.

Mr. SMOOT. I was called out of the Chamber, and I did not hear the resolution read. May it be read again?

Mr. MOSES. It is merely a concurrent resolution to print the tariff bill as reported, together with the report.

Mr. SMOOT. The House has already made such an order.

Mr. MOSES. No; the Senator, from his experience on the Printing Committee, knows very well that the amount of money involved is provided concurrently.

Mr. SMOOT. I do not know whether the same rule applies with the Ways and Means Committee of the House that applies with the Finance Committee of the Senate, but in the Senate we are not bound by that law in the printing of tariff bills.

Mr. MOSES. The House, however, feels that it is, and therefore has passed a concurrent resolution to carry out this purpose.

Mr. SMOOT. I have the report made to the House, and also a copy of the bill as it was reported to the House, and I will say to the Senator that there is no index to it, but in the report every section of the bill is numbered just the same as in the bill, and an explanation of it given, and the provisions in the present law as compared with the bill as reported to the House are shown in the report. It is very complete, I will say to the Senator, but there is no index.

Mr. NORRIS. Mr. President—

Mr. MOSES. May I add, too, that it is proposed to print the bill in the form of a document, much less bulky than the printed form of the bill, but it will be printed page by page and line by line, and the text will be exactly as it is in the bill as reported to the House. But I do think an index should be added.

Mr. SMOOT. Then, if an index is to be added, and a request made now for the printing of it, or a separate index—

Mr. MOSES. I think, in order to facilitate the matter, we had better concur in the resolution. Then I will consult with the Senators who are interested in the matter, and offer another resolution later to provide for an adequate index, to be prepared under our auspices.

Mr. ROBINSON of Arkansas. I shall not object to that, but it does seem to me that the resolution itself might be amended now so as to require an index to be printed with this document.

Mr. MOSES. That is true, Mr. President, but we might have to wait a considerable time for the index to be prepared. The bill is very voluminous, and involves thousands of items.

Mr. SMOOT. And who will prepare the index?

Mr. MOSES. Personally, I would rather offer a separate resolution to have an index prepared by one of the experts of the Committee on Finance. Then we could have additional copies printed for the use of the House.

Mr. COPELAND. Mr. President, I will say that this volume comprising the tariff bill will be of no use without an index. I tried yesterday to find certain items in the bill in which I was interested. It is almost valueless without an index.

Mr. ROBINSON of Arkansas. Does the resolution provide for the printing of the minority report?

Mr. MOSES. I so understand it, Mr. President.

Mr. NORRIS. Mr. President, I want to suggest that this document will be practically useless if we do not have an index.

Mr. ROBINSON of Arkansas. Absolutely.

Mr. NORRIS. We already have copies of the bill, and we have all had experience already in trying to find some items in it. It will take a Senator half an hour to find something unless he just happens to hit upon it the first time he looks. The bill contains more than 400 pages, covering thousands of items, and I do not see anything to be gained by printing it now and getting an index afterwards, because in the meantime it will be of no value to anybody. It ought to be printed not only with an index, but the suggestion of the Senator from Utah ought to be carried out; we ought to have the comparative provisions shown. Where there is a change in existing law, it ought to appear. Then the compilation would be of some use.

Mr. MOSES. I agree to all that. As a matter of fact I do not know about the office of the Senator from Nebraska, but my office is being flooded with requests for copies of the bill and report which are not available. I understand from the Printing Committee in the House that that is the case over there and that the ordinary number of bills printed when a bill is introduced has been exhausted and it is necessary to have additional copies of the bill, and, of course, depending upon the point of view of the constituent writing, a copy of the report too. If we wait by amending the resolution to provide for an index it will be two or three weeks before copies may be prepared.

Mr. NORRIS. Would it take so long?

Mr. MOSES. It might, but I would hope not. I feel sure a Senate resolution which may be offered providing for a proper index by the Committee on Finance of the Senate, which is not now engrossed with the tariff bill, could probably be speedily carried forward. I ask the chairman of the committee if that is not so.

Mr. SMOOT. That is true. In answer to the Senator from New York, too, if he wants a good index that will help him find what is in the bill, I suggest that he take the tariff act of 1922 with the index. He will find that there are almost the same identical pages and every item in the whole tariff act of 1922 is indexed. That is a temporary suggestion.

Mr. ROBINSON of Arkansas. Mr. President, will the Senator from New Hampshire yield?

Mr. MOSES. I have the floor by the courtesy and grace of the Senator from New York. I yield in the second or third degree to Senators who may so desire.

Mr. ROBINSON of Arkansas. I am very much interested in the statement just made by the Senator from Utah. If I understand it, he proposes to adopt temporarily the index prepared in 1922 for a different act, the act known as the Fordney-McCumber Act.

Mr. SMOOT. I simply suggested to the Senator from New York that he could find every item in the index, and while they are not on exactly identical pages, yet it contains every schedule in the present bill.

Mr. COPELAND. Mr. President, I would like to ask the Senator from Utah if he means to have us use the index of the last monstrosity and that every schedule in it has been increased in the present tariff bill?

Mr. SMOOT. Oh, no. The Senator said he could not find the items in the House bill.

Mr. COPELAND. That is true.

Mr. BARKLEY. Mr. President, is it not true that the index for the act of 1922 would be just as logical now as the bill which has been introduced and is now under consideration?

Mr. SMOOT. That may be true, and anyone who does not want an index to the bill itself might view it that way, but anyone who really wants to study the items would want an index, and that is what we are going to have.

Mr. BARKLEY. I wish to inquire of the Senator from Utah whether it is his policy as chairman of the Finance Committee to delay consideration of the bill by the Finance Committee until it is acted on in the House?

Mr. SMOOT. It is.

Mr. BARKLEY. I am informed that under the process which will be adopted in the other body the bill now introduced will be the bill as it will finally be passed by the House. I am wondering whether in view of that fact the Senator from Utah would not consider it wise to proceed in the Finance Committee of the Senate to consider the bill without waiting for its passage by the House, so as to facilitate its early consideration here and an early adjournment, which would otherwise be impossible.

Mr. SMOOT. The Senator from Utah is going to pursue the same course which has been followed by the Senate on all previous occasions. I doubt whether it would be appropriate at least for the Senate now to take the House bill as reported to the House, not knowing what changes are going to be made

there, and hold hearings upon it. In the past we have always waited until the bill came to the Senate and then have taken it up for consideration, and that is what I propose to do now.

Mr. KING. Mr. President, will the Senator from New Hampshire yield?

Mr. MOSES. I yield.

Mr. KING. I think the statement made by my friend from Kentucky challenges the good faith of the Republicans in the House.

Mr. MOSES. Mr. President, a point of order. We may not discuss here things that have taken place at the other end of the Capitol.

The PRESIDING OFFICER. The point of order is sustained.

Mr. KING. I am sure our friends in the House will allow legitimate debate; that there will be no cloture and no previous question, so that when the bill is considered in the House many of the infamies which exist in it will be excluded. There will be undoubtedly some progressive Republicans and some Democrats in the House who united may want to perfect the bill and send us a vastly different measure from that which is now presented to the House.

Mr. MOSES. I rejoice in the optimism of the junior Senator from Utah. Now I ask that the question may be put on agreeing to the resolution.

The PRESIDING OFFICER. The question is on the adoption of the concurrent resolution.

The concurrent resolution was agreed to.

Mr. MOSES. Mr. President, I now move that the Committee on Finance be directed to provide an index with comparative figures of rates for the bill H. R. 2667, of the Seventy-first Congress, first session, as compared with the existing tariff law.

Mr. KING. Mr. President, will the Senator yield?

Mr. MOSES. I yield.

Mr. KING. I have no objection and I concur that there should be an index, but I am wondering whether the House Committee on Ways and Means might not have prepared an index.

Mr. MOSES. We have no knowledge that they have done so. I am quite sure the experts assigned to the Committee on Finance, being now free from any detailed consideration of the tariff bill, can apply themselves directly to the preparation of an index and probably can get it ready for printing much more quickly than it could be done at the other end of the Capitol.

Mr. SMOOT. If the House has prepared an index, the Finance Committee never would undertake it.

Mr. SHORTRIDGE. Mr. President, I should like to make an inquiry of the Senator from New Hampshire.

Mr. MOSES. I yield for that purpose.

Mr. SHORTRIDGE. Is this index to be made of the bill as reported?

Mr. MOSES. As reported to the House. We have no other document upon which to proceed.

Mr. SHORTRIDGE. I think I know that; but is it to be made of the bill as it now stands or is it to await the disposition of the bill by the House?

Mr. MOSES. Oh, no, indeed; we can not wait so long.

Mr. SHORTRIDGE. That is my question. It is to be made now an index of the bill as it is before the House of Representatives.

Mr. MOSES. If it will help matters, I will add the word "forthwith" to my motion.

Mr. BARKLEY. Mr. President, will the Senator yield further?

Mr. MOSES. I yield.

Mr. BARKLEY. In the daily press of yesterday a part of an index was provided which compared the present bill with the Fordney-McCumber Act, and also the Underwood-Simmons Act, so that we have the previous two acts thus compared with the present House bill. Would it be possible for the Finance Committee to prepare a similar index?

Mr. MOSES. If the Senate desires to have a lot of ancient documents dragged out and thus indexed, we can not resist it if a majority of the Senate desires it.

Mr. BARKLEY. I understand some items of the present bill are even below the Underwood Tariff Act, and it might be a matter of great interest to make a comparison of those with the proposed law.

Mr. MOSES. Then, to use the language which was employed by the junior Senator from Utah, if, of course, the Senate desires that other monstrosities shall be compared with the splendid measure now presented for the relief of the American agricultural industry, I have no objection.

Mr. BARKLEY. If we are dealing with monstrosities, let us have them all.

Mr. MOSES. Yes; let us bring in the whole menagerie. I do not object.

Mr. ROBINSON of Arkansas. Mr. President, will the Senator yield?

Mr. MOSES. I yield.

Mr. ROBINSON of Arkansas. Pending decision of the question, I would like to ask the chairman of the Committee on Finance when it is expected that the Finance Committee will begin consideration of the bill, and how long he thinks it will require the committee to submit its report to the Senate?

Mr. SMOOT. My hope is that the House will get through with the bill in two weeks. My further hope is that the Senate Finance Committee will hold hearings not longer than three weeks, and after the hearings are concluded there will not be a moment's time wasted in presenting the bill to the Senate.

Mr. MOSES. To the other optimist from Utah, the junior Senator from that State, I now wish to add the senior Senator from Utah. [Laughter.]

Mr. ROBINSON of Arkansas. Is there any reason why the Finance Committee can not proceed now with such hearings as it desires to hold?

Mr. SMOOT. Only the impropriety of considering a bill which has not passed the House and in which we do not know what the rates will be. I am informed there are to be a number of votes taken upon items in the bill in the House. Of course, more than likely they will be the important items and perhaps those which would have more applicants for hearings in the Senate than on the entire remainder of the bill.

Mr. ROBINSON of Arkansas. I do not share the optimism of the senior Senator from Utah.

Mr. McNARY. Mr. President, I make the point of order that the Senate is not in order. Let us have some order so that we may hear the discussion that is going on.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MOSES. Mr. President, I yielded to the Senator from Arkansas to propound an inquiry to the Senator from Utah [Mr. SMOOT], which I assume has not been adequately answered. Therefore I will resume the floor and undertake to answer the Senator from Arkansas in behalf of the Senator from Utah by saying that, of course, the Senate Committee on Finance can not begin hearings on the bill before it comes to us from the House. Under the very able leadership of the Senator from Arkansas [Mr. ROBINSON] the Senate yesterday affronted the House in connection with another piece of legislation. I hope the Senator from Arkansas is not going to insist that it now affront the House again. As to the termination of the hearings which the Senator from Arkansas suggests, I can not undertake a prophetic rôle in spite of my name, but the fact is that the hearings will last longer than the senior Senator from Utah indicates.

Mr. ROBINSON of Arkansas. Mr. President, the mental processes of the Senator from New Hampshire are past comprehension. He has asserted that at my suggestion the House of Representatives was affronted by the Senate yesterday in refusing to vote out of the pending bill for farm relief what is known as the debenture provision. There is not the slightest foundation for that assertion. Any lawyer who studies the question, including the Senator from New Hampshire—

Mr. MOSES. Let me say that I am not a lawyer. I am not even a member of the bar.

Mr. ROBINSON of Arkansas. I do not know what the Senator from New Hampshire is. I was disposed to ascribe to him attributes and qualifications which he in his modesty admits he does not possess.

Any lawyer who studies the question will arrive at the conclusion that the so-called debenture provision in the bill has no relation whatever to that clause in the Federal Constitution which provides that "bills for raising revenue shall originate in the House of Representatives." Every court decision that has been rendered on the subject, every construction that has been placed on the question by political authority, leads to the conclusion that the so-called debenture provision is not a "bill for raising revenue." In three cases decided by the Supreme Court of the United States a bill for raising revenue within the meaning of that constitutional provision has relation only to the taxing power. Appropriation bills and bills which contemplate expenditures or withdrawals from the Treasury are not bills for raising revenue, and no strained construction can give it such a meaning as would warrant the statement here or elsewhere that the Senate by assuming to retain the provision to which I have referred has usurped the jurisdiction of the other body—the body at the other end of the Capitol.

I realize that there is a movement on foot to attempt to prevent a decision by the Congress on this question by resorting to a parliamentary ruse through which the body at the other end of the Capitol may be prompted to affront the Senate of

the United States by insisting upon an interpretation of the constitutional provision requiring that all bills for raising revenue shall originate in the House of Representatives that is neither warranted in fact nor in law. The Senate has just as much right to incorporate in the farm relief bill the debenture provision as would the body at the other end of the Capitol. No court has ever said that a "bill for raising revenue" comprehends or includes such a provision as is embraced in the debenture plan. Let us get that proposition clear now. Before this Congress shall adjourn the debenture plan will be voted on; Congress will express its will touching the inclusion or the incorporation of that method of farm relief. Capitalistic influence, great newspapers that have supported tariff protection, which in morals and in fact constitutes as much a subsidy or a bounty as does the debenture plan, having no grasp of the pitiable condition which prevails in the rural sections of this country, assuming to their favorites the right to continue to enjoy perpetually special favors and privileges under the law of this Nation, seek to characterize as unsound and unjust the application of principles closely analogous to that which they assert in behalf of industry.

Now we are told that a strained construction of the Constitution is to be made to prevent the representatives of the people from giving expression to their will, and the men and women of this country who have received little consideration from the political departments of the Government, those who need and deserve equality of treatment with capitalistic influences, the farmers of the Nation, are to be sent into the future without recognition of a fundamental principle which we ought to accept, no matter whether we be Democrats or Republicans. The unselfish purpose of everyone here ought to prompt him to extend to the farming population of the United States equality of rights and privileges with the industrial organizations of the country, and the press of the Nation, that part of it which has advocated the benefits of a high tariff, and men of wealth, in whatever sphere of industry, had just as well now recognize the fact that if the high wall which has been built about themselves and their riches through high tariff rates and the exploitation of the farming people is to be maintained, similar privileges, the same privileges to some degree, should be extended to those who need them most.

No one can make a joke of this subject. So far as I am concerned, it is a serious issue. I recognize that Congress has treated it lightly in the past; I anticipate that it may do so in the future; but there is one principle to which we should all conform, and that is the principle of equality of rights, opportunities, and privileges. When the Republican majority recognize that principle, instead of coming here with a 500-page bill, which constructs higher and higher and stronger and stronger the bulwarks behind which great wealth intrenches itself, they will do something calculated and designed to afford relief, quick relief, to those who have been the objects of our professed political solicitude throughout 10 years of agitation and of effort.

Mr. MOSES. Mr. President, the speech—

Mr. SIMMONS. Mr. President—

The VICE PRESIDENT. Does the Senator from New Hampshire yield to the Senator from North Carolina?

Mr. MOSES. I yield.

Mr. SIMMONS. I do not exactly see the necessity of the motion which the Senator from New Hampshire has made. I think the Finance Committee has always supposed that it had authority to have indexes prepared.

Mr. MOSES. Even of a measure in the House of Representatives?

Mr. SIMMONS. I do not know that we have ever gone that far. We probably have not had an index prepared for a bill prior to its passage by the House, because I think that would probably give rise to a great deal of confusion, which ought to be avoided.

I do not think we have anticipated the action of the other House, but when that body has acted, then we have had an index prepared, and I think we have full authority to do it now, either before or after the House of Representatives has acted. I do not, however, conceive that it would be quite the right thing for such an index to be prepared before action by the House. Of course, a temporary index might be of some advantage, but if it should be intended to be used permanently in the consideration of the bill it might give rise to a great deal of confusion in case the House should in any material particular amend the bill.

I think the Senator can trust the Finance Committee to attend to the matter pretty thoroughly. It has always done so heretofore; and I think it would be very much better practice, if the Senator will pardon me for expressing an opinion about it, to wait until after the bill shall have passed the House and

shall have come over to the Senate and been referred to the committee. I am a little doubtful as to whether the committee would have authority, without a resolution of some kind, to have such an index as is suggested prepared before the bill had been referred to it. That is the only doubt I have.

If the Senator will pardon me, I wish to say a word further. The question of hearings has been raised. I myself have no objection, if the Finance Committee wants so to proceed, commencing the hearings right away, but I think before we begin to hold hearings we ought to know exactly what the other House has done.

Mr. KING. I agree with the Senator from North Carolina as to that.

Mr. SIMMONS. Again, I think it is ordinary courtesy to the other branch of Congress that we shall await their action before we begin to hold hearings about what they have done, because that is what the hearings will be about. The hearings will necessarily have reference to what the House has done, and to undertake to hold hearings before we know what the House had done I think would be out of order.

Mr. MOSES. Mr. President, this whole discussion has arisen from a simple motion which I made to concur in a resolution coming over from the House of Representatives. The suggestion that there should be an index to the tariff bill as reported to the House came from the other side of the aisle. I regret, of course, that the time of the Senate has been consumed in the consideration of so slight a matter. I content myself merely with observing that the remarks made by the Senator from Arkansas [Mr. ROBINSON], the victorious leader in the combat which came to its climax yesterday, will undoubtedly be repeated in the course of the debate which will take place here when the House politely returns to us the farm relief bill, as I am sure it will. Pending that, Mr. President, I withdraw my motion.

FARM RELIEF

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 1) to establish a Federal farm board to aid in the orderly marketing, and in the control and disposition of the surplus, of agricultural commodities in interstate and foreign commerce.

Mr. COPELAND. Mr. President, I am quite content to have the discussion go on. I have an engagement to speak in Ann Arbor, Mich., a week from to-morrow night, so I think between this time and that there will be ample time to discuss the various aspects of this bill.

I want to say to the Senator from Arkansas, in spite of the fact that I represent a section of the country not so vitally interested, that I am proud I had a part in voting as I did yesterday, even though I held my nose to do it. When there has been an opportunity to discuss with a business man or banker and to point out the importance of prosperity upon the farm as being precedent to prosperity in New York City, I have never yet failed to find him sympathetic to the idea. We can not sell the products of the cities, we can not sell the products of the manufactories and industries of this country, we can not keep labor employed, unless the great buying group of the country is in possession of funds to buy these products. Therefore we must find a way to make it possible to restore prosperity to the farm. I do not, however, want to see important industries of my city destroyed by including in this bill the fruits and vegetables which make up the great bulk of their transactions.

How are these fruits and vegetables marketed now? I am sorry that many of them rot on the tree or in the ground; but those that go to market are being handled in some effective way, and how is that?

Here is a letter that I have received from a great concern in New York City, distributors of fancy fruits and vegetables, one of the Washington Street group. I desire to quote a paragraph from the letter:

There is just one thing I wish to bring very forcefully to your attention which will no doubt be interesting to you to learn—that practically 75 per cent of the fresh fruits and vegetables now produced in our country are sold f. o. b. loading station to various firms and operators throughout the country in our line of business; and very frequently these commodities are sold at a higher price f. o. b. loading station than it is possible to obtain later in the delivery markets after the car of merchandise arrives. Consequently, the merchandise is placed in storage. This applies particularly to such fruits as apples and pears, and such vegetables as celery, cabbage, onions, potatoes, etc.

Now, listen to this statement, the next paragraph of this letter:

Now, with the Government contemplating going into the field and doing the marketing it is intended to do, there is grave doubt in the writer's mind that any dealer or distributor of perishable fruits and

vegetables would be willing to invest his money in any of these commodities when there is a possibility that the Government agencies would have control over a large portion of these perishables to throw them on the market at any time, which could and would tend to demoralize market conditions.

Mr. EDGE. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from New Jersey?

Mr. COPELAND. I yield to the Senator from New Jersey.

Mr. EDGE. I want to be entirely clear on these two pending amendments—the one offered by the Senator from New York and another one that is pending, offered by the Senator from Washington [Mr. JONES]. As I understand, if the amendment offered by the Senator from New York is adopted by the Senate, inserting the words "as used in this act, the words 'agricultural commodity' mean an agricultural commodity which is not a fruit or a vegetable," it would, in effect, absorb the amendment offered by the Senator from Washington, and there would be no necessity to consider that amendment.

Mr. COPELAND. That is correct. If my amendment is adopted, it will exclude from the operation of the bill all fruits and vegetables but will leave section 9, which provides for clearing-house associations in the event of necessity. So, as the Senator has suggested, it would absorb the amendment of the Senator from Washington.

When interrupted, and properly so, by the Senator from New Jersey, I was about to ask, Are we willing to have these great commission concerns and produce concerns ruined by passing a bill which they fear will destroy them if enacted into law?

I have gone as far as any Senator in this body through the years I have been here to help the farmer. In doing so I have done what many of my colleagues have wished me to do; but I say to you, Senators, that if this bill is enacted as written, the great commission merchants and produce dealers of the great cities of this country—not alone the city of New York, but Chicago and Cleveland and Cincinnati and Pittsburgh and Kansas City and every other city—will be destroyed.

Mr. BLAINE. Mr. President—

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from Wisconsin?

Mr. COPELAND. I yield to the Senator from Wisconsin.

Mr. BLAINE. I should like to inquire of the Senator if it is not more dangerous for the producers to join the clearing-house association than it is to join the stabilization corporation, assuming that there is any danger in joining either one of them?

Mr. COPELAND. My judgment is that we are dealing with an entirely different thing when we deal with the clearing-house association. If the Senator will read the top of page 18, line 2, he will see that it says this:

Cooperative associations handling the commodity, independent dealers, handlers, and/or distributors of the commodity shall be eligible for membership in the association.

If an emergency arose where the board deemed it advisable to interfere or interpose in the proper way in the matter, they would be prepared, under this section of the bill, to deal with these concerns I am talking about.

Mr. BLAINE. Mr. President, will the Senator yield again?

The PRESIDING OFFICER (Mr. Fess in the chair). Does the Senator from New York further yield to the Senator from Wisconsin?

Mr. COPELAND. Certainly.

Mr. BLAINE. My own conviction is that perhaps section 9, providing for clearing-house associations, should be stricken out, and that the section relating to stabilization corporations ought to be amended to the effect that no stabilization corporation should be organized unless the cooperative associations handling, we will say, 50 per cent or more of all the commodity that is cooperatively marketed made a request to join.

Mr. COPELAND. There is more sense in that. I shall be very glad to study a proposal of that sort.

Mr. BLAINE. I was going to suggest to the Senator that it is my intention to submit an amendment to provide for that condition.

Mr. COPELAND. I shall be very much interested in giving thought and study to it.

Mr. WAGNER. Mr. President—

The PRESIDING OFFICER. Does the Senator from New York yield to his colleague?

Mr. COPELAND. I do.

Mr. WAGNER. As I understand the objection made by those interested in the amendment that my colleague offers in regard to perishables—and the objection is well grounded, in my view—it arises from an apprehension that the producers of a small

percentage of a particular commodity might organize into co-operatives, and then make application for and secure the formation of a stabilization corporation, and create competition between those in the corporation and the producers of the larger portion of the commodity who are out.

Mr. COPELAND. That is well stated.

Mr. WAGNER. Would not that be absolutely cured—and I am supported in my contention by those who are interested in this question—if the Senate should incorporate in the bill an amendment which I have proposed, which I think the Senator has had a chance to study, which provides for the formation of one stabilization corporation, a quasi-public corporation, which will be the only stabilizing corporation handling all of the commodities included in the pending legislation. You would not then have to question how much of the commodity is represented within the stabilization corporation and how much is without? It would be a single corporation handling all of the commodities, and the Government would not only provide the money, which it does provide, but would also control the use of the money. Would not that absolutely cure the situation?

Mr. COPELAND. There is no question about it.

Mr. McNARY. Mr. President—

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Oregon?

Mr. COPELAND. I yield.

Mr. McNARY. The Senator makes a very interesting observation. What form of force would he employ to bring all of the producers within the stabilization corporation?

Mr. WAGNER. It is a quasi-public corporation which takes charge of the business of disposition and control of the surplus of the different commodities as a business corporation and on its own account.

Mr. McNARY. Is the Senator dealing only with the surplus?

Mr. WAGNER. Is not that the purpose of a stabilization corporation—to influence the price of the commodity for the protection of the farmer?

Mr. McNARY. That is one of the purposes, but only one. I have not read the Senator's amendment, but I am interested in it. I understand that it would attempt to impress upon these cooperative organizations and all producers the necessity of grouping themselves into a quasi-public corporation.

Mr. WAGNER. That is not the purpose of the amendment. I do not interfere with the organization of cooperatives for the purposes described in the bill, such as the building of storage facilities and other respects in which the cooperatives are to be assisted under the pending legislation; but I say that the stabilization corporation which is to influence the price of the commodity by controlling the surplus ought to be a corporation which represents all of the commodities included in the present legislation.

Mr. McNARY. I am curious to know how the Senator would embrace all of the producers of a commodity. Would he compel them to come in?

Mr. WAGNER. No. The corporation deals in the commodity. The commodity is upon the market. The farm board is apprised of the situation.

Mr. McNARY. I am trying to get the Senator to distinguish between his proposal and the stabilization corporation that will function under the terms of this bill. That is one of its purposes.

Mr. WAGNER. The difference is this: In the first place we are sure of having a stabilization corporation under my amendment, but we are not sure that we shall have any stabilization corporations under the bill as it stands.

Mr. McNARY. Then the Senator makes it mandatory in some fashion that a stabilization corporation be created, whether or not it is the desire of the producers to have it done?

Mr. WAGNER. Yes; but it does not act unless the conditions of the market justify it in acting.

Mr. McNARY. Who determines that—the board?

Mr. WAGNER. The board.

Mr. McNARY. Then, would the board have a right to compel every producer to come in and take away from him his initiative in the way of marketing his product?

Mr. WAGNER. Not at all. The corporation does not interfere with the producer in marketing his crop. It purchases and sells the surplus of the commodity in order to stabilize the price; and if there is not any surplus, or if there is no reason for the intervention of the corporation as determined by the members of its board of directors, then it does not act.

Mr. McNARY. I want to know what is the difference between the Senator's idea and that expressed in the language of the bill.

Mr. WAGNER. There is only this difference: Under the amendment which I propose there is an assurance of the crea-

tion of a stabilization corporation. We do not have to wait for the application by cooperatives which may or may not be formed. Secondly, under the bill I think everybody concedes that the Government will supply all the money for the operation of the stabilization corporations without having any control. Under the plan which I have proposed the money is to be furnished by the Government, but the utilization of the funds is to be under the control of the responsible officials of the Government.

Mr. KING. Mr. President, will the Senator yield?

Mr. COPELAND. I yield.

Mr. KING. The statements just made by the junior Senator from New York, together with the interrogatories propounded by the chairman of the committee, reveal some of the uncertainties of the pending bill and demonstrate the confusion which exists in regard to its scope and effect. The more the bill is studied, the more its weaknesses are revealed. That it is economically unsound is the opinion of many who have examined it sympathetically with a view to finding its merits and with the hope and expectation that it will ameliorate the condition of agriculture and prove of benefit to the farmers.

The numerous amendments which have been offered indicate the fears that many friends of the measure entertain as to its soundness and effects when put into operation. Communications from all parts of the United States reveal the conflicting views of the people in regard to the bill and demonstrate that a considerable part of those engaged in various branches of agriculture do not desire to come within the provisions of this measure. Many dairy organizations and cooperatives are unwilling that the bill shall be applicable to them, and Senators are receiving hundreds of letters and telegrams from fruit and vegetable growers protesting against being included within the provisions of the bill.

There are many agriculturists who regard the bill as being unsound as well as unjust in that it seeks, as they think, to coerce them into the membership of cooperatives and to force the latter into stabilization corporations. If I correctly interpret the position of the junior Senator from New York, he would prevent a multiplicity of stabilization corporations and establish a giant, omnipotent organization to control the products, or at least the surplus, of agriculture. If I understand him correctly, his view is that a governmental organization should be formed to take care of all surplus agricultural commodities, which means, of course, to purchase them from the producers and, of course, at prices that will be above world prices. This organization would, in effect, fix prices by taking from the market all surplus agricultural products, thus fixing a high level of prices for the products sold in the domestic market.

Obviously a Federal organization to accomplish this task must be sufficiently powerful to practically control all agricultural products. And to control them it must mean their supervision under all conditions and for all purposes. The United States is too large, its interests too diversified, and its agricultural products too numerous in variety and too stupendous in quantity to be successfully and economically controlled by a Federal corporation or a quasi-governmental agency.

The Bolshevik government of Russia attempted this plan. It sought to bring all the farmers and their products under the control of the Government, which was to provide for the distribution of all products and make provision for the export of all surplus commodities. Agriculture withered under this blight, and the Soviet régime is now compelled to import grain to supply the necessities of the people, notwithstanding the fact that within Russia are millions of acres of most excellent agricultural lands.

The provisions in the bill for stabilization corporations are pointed to with considerable enthusiasm by some of the proponents of the bill. Just how the stabilization provisions will operate has not been clearly elucidated by Senators supporting this bill. It is contended by some that there should be but one stabilization corporation for each commodity. This view, in my opinion, raises a multitude of conditions and factors that vitally affect the problem involved. A stabilization corporation organized at the instance of the apple growers of Virginia would utterly fail to meet the situation of the apple growers in other parts of the United States. Agricultural conditions in New Hampshire are different from those in California. The vastness of our country, the differences in climate, the question of transportation with the varying costs of conveying to domestic and foreign markets products of field and farm, the infinite differences incident to the production and distribution and transportation and marketing, involving wide variations in costs—these, and a multitude of other factors, create a situation which precludes the formation and exe-

cution of uniform policies, rules, and practices to govern all sections of our country.

It has been suggested that there should be a stabilization corporation for apples, another for peaches, still another for lettuce, and for each vegetable and fruit, as well as each agricultural product. How would it be possible to set up a corporation to deal with every kind of fruit and vegetable and agricultural product? A stabilization corporation set up at the instance of the growers of alfalfa in the Imperial Valley could not apply any uniform rule or procedure to the New England or Southern States or to the Mississippi Valley States which would meet the situation in lower California. The problems of the fruit growers of Florida are entirely different from those of California. The people of Illinois would be unwilling to have a stabilization corporation created, at the instance of the people of Texas or Massachusetts, to exercise the authority conferred by this bill upon such corporation, over products of the same character produced in Illinois; and it is certain that agriculturists who may approve of the general provisions of the bill would be unwilling for a limited number of persons residing in a restricted area of the United States to set in motion the forces which would culminate in the organization of a stabilizing corporation.

Protests have been made to me against the provision of the bill, as interpreted, which permits these stabilization corporations to be set up by a minority of agriculturists producing a commodity which is to be the basis of such corporation. I have been asked to offer or support amendments that will prevent stabilization corporations being formed until at least 60 to 75 per cent of those producing the agricultural product which is to be brought within the operating provisions of the stabilization corporation have petitioned for the organization of such corporation.

There are many who believe that if this measure is put into operation it will destroy existing cooperatives and some organizations which are materially benefiting farmers, and which, if not destroyed by unwise legislation, will increase in strength and influence and thus be able to render still greater service to American agriculture. The belief is further entertained by some that the provisions of this bill, particularly if not wisely and justly administered, will constitute obstacles to individual initiative and to the creation of additional agricultural operating units, organizations, and cooperatives. There is also a fear of bureaucracy, of governmental favoritism, of the effects of a possible, if not probable, competition between organizations operating under the countenance of the Government (and with capital supplies by it) and individuals or independent organizations. It is thought by some that this situation will create resentments and prevent initiative and that fine spirit of individualism, which has contributed so much to our country's development, and which is essential to its prosperity and welfare.

I submit that farmers of courage and independence and initiative, who have made a success of their business and who feel competent to manage their own affairs, may have some justification for doubting the wisdom of this bill, and reasons for entertaining fears as to its effects upon them as well as agriculture generally.

Mr. President, the board created by this bill is given most extraordinary powers. They can create a bureaucracy and a machine all-powerful, that would injure the farmers as well as the country generally. However, in the time of the Senator from New York [Mr. COPELAND], who has courteously yielded, it would be improper for me to further trespass upon him or upon the Senate. I was prompted to take the floor for a moment because of the remarks of the junior Senator from New York and the amendment which he says he will offer. In my opinion, the adoption of that amendment would be most unfortunate. The bill is imperfect and confusing and oppressive in its present form. It would be more objectionable if the amendment suggested were adopted.

This bill, if it should become a law, will prove most disappointing to the farmers and it will, in my opinion, call for many explanations upon the part of some who have loudly clamored for farm relief, and have joined in offering to the American farmer, and to the country, the pending measure as a perfect and finished product of American statesmanship. With the debenture provision eliminated, as I believe it will be, I may vote for it, but I shall do so with reluctance, and only because, as it appears, no other measure has any chance of passage, and because the agriculturists generally believe that it has some virtues and will contribute to the alleviation of their financial difficulties.

Mr. COPELAND. Mr. President, I have been very much interested in this colloquy. In my judgment, my colleague has

presented a very notable contribution to the solution of this question. Of course, I think probably the Senator from Oregon [Mr. McNARY] and I would want to add the equalization fee, and charge against any crop the expense of handling that particular crop. With that I believe my colleague's would be a model bill. It is a good bill now, and I shall be very happy when it is presented to vote with my colleague.

Mr. WAGNER. Mr. President, will my colleague yield?

Mr. COPELAND. I yield.

Mr. WAGNER. On the question of proposing the amendment now, I have reached the conclusion that that would be a futile gesture, because my bill is a substitute for the pending bill, and it does not include the so-called debenture clause, and since the Senate has acted in favor of the debenture clause, it has answered me in the negative.

Mr. COPELAND. Mr. President, with the exception of this particular thing, there is no difference of opinion between my colleague and myself.

Mr. McNARY rose.

The PRESIDING OFFICER. Does the Senator from New York yield to the Senator from Oregon?

Mr. COPELAND. I yield to the Senator from Oregon.

Mr. McNARY. I recall my request.

Mr. COPELAND. I am always pleased to yield to the Senator from Oregon. I think we fail to appreciate the sacrifices made by the Senator. I have seen him day after day, week after week, in this session and in other sessions, year after year, sitting here patiently praying and hoping that something might be done to relieve the farmer. While he was not for the debenture, yet, with the addition of that to the House bill, perhaps it makes the House bill worth while, but without it, as I said the other day, in my opinion the House bill is not worth \$36 a thousand.

Mr. FLETCHER. Mr. President, may I interrupt the Senator?

Mr. COPELAND. Certainly.

Mr. FLETCHER. I know that under the provision of the bill it is optional as to these various commodities whether they come in or stay out, but it is urged that those who are in will have some advantage over those who are out. What I want to know is why that is the case. Why is it that those who decline to come in under the provisions of the bill will be adversely affected if they do not? I understand the Senator to argue that the commission houses and great distributors in the cities will be destroyed. I would like to know why that is the case. I can not quite agree with that definite conclusion unless I am given some reason why that is so.

Mr. COPELAND. I wonder if I can give an effective answer. The Senator must bear in mind that as regards fruits and vegetables, the perishables, their production is a business which is being carried on now by cooperatives, but much more largely by private enterprise. I read just now a letter from a prominent merchant of my city pointing out, as the Senator will recall, that 75 per cent of the fresh fruits and vegetables are handled now by produce men, commission men. Three-fourths of the fruit and vegetable business is done by commission men.

While there are a few very successful cooperative associations—I suppose the citrus fruit association is one, and we have spoken about the dairymen's league, and there is an apple growers' association—while there are a few very successful cooperatives, the quantity of produce which they handle is a very small proportion of the business now being done in those commodities.

Let us assume that the figures I gave are correct, that 75 per cent are handled by private concerns. It takes a lot of money to finance them. As the Senator knows better than I, we export large quantities of apples to England, and we export enormous quantities of apples to South America. Much of the money which is used to carry on that business is foreign money, money advanced by foreign bankers.

This is what will happen, in my judgment, if these commission men are right: If the Government undertakes to go into the business—suppose it should decide that it will handle apples or pears or onions or some other products—the private merchant at once says, "I can not afford to take any chance. I can not afford to buy any of these things. My bankers refuse to advance any money, because how do we know what this governmental body is going to do with those products after they have purchased them? They may dump them on the market, necessarily when the market is good, and glut the market, and by reason of the decline in the values the private individual is ruined, while the governmental body has all the funds of the Government at its disposal." There is the point.

Mr. FLETCHER. Do I understand the Senator to say that these cooperative associations now existing, for instance, do

their own marketing and distribution? Do they not now patronize the same distributing agencies?

Mr. COPELAND. Some do; while others, on the other hand, ship direct to Europe. Many of them now employ these agencies.

Mr. FLETCHER. Does the Senator contemplate that if the Government undertakes to dispose of this surplus, the Government itself will establish its own agencies rather than patronize existing organizations and concerns?

Mr. COPELAND. I have no doubt of that. Let us take that other matter in which the Senator and I are interested, the matter of the merchant marine. We would not have thought it was conceivable, when we were operating the United States Lines, that we should make use of the Cunard Line offices or some other steamship offices. We established our own agencies, our own advertising agencies and ticket offices, and the various departments of business industry needed to push forward the United States Lines. Similar methods would be employed in regard to these commodities. I can not think for a moment that a governmental agency would make use of these private institutions. It is not right that we should subject them to the possibility of annihilation.

Let me read for the RECORD, and for those who may be interested, a telegram from a concern known as the South American Fruit Exporters' Association. It is a New York corporation. It represents shippers of 700,000 packages of apples. Just think of it, 700,000 packages of apples are shipped by this association each year to South America. They—

urgently request that apples and pears be excluded from pending farm relief bill. Feeling in South America already most antagonistic against continued importations of American apples, on account of Agricultural Department restrictions on importation of South American fruits. If apples and pears included in farm relief bill, members of our association must withdraw from continued shipment as the danger of the stabilization agency dumping supplies of apples in South America would not permit us to continue our business in the exportation of apples which we must purchase outright from growers in the United States.

What do these produce agencies do? They go out to my farm. My place is about 30 miles from New York, and I have several hundred apple trees. They buy the crop on my trees, not this concern, but some concern; I would not for the life of me know what concern, but somebody buys the crop. They say, "We will give you so much for your crop," or "We will give you so much a bushel for your crop," and they take charge of it.

They pay me. I do not know where they get the money, but I get my money. Then they go on with their transaction, and I assume they make money out of it. There are hundreds of such commission organizations in my State, and they are unanimous in their opposition.

For the sake of the RECORD I will recite the fact that I have here many telegrams of protest. For instance, let me read this one:

NEW YORK, N. Y., May 2, 1929.

HON. ROYAL S. COPELAND,

Senate Office Building:

Respectfully ask you vote for elimination fresh fruits, vegetables, from Senate bill No. 1 because their perishable character requires marketing system which should not be disturbed, making hardship our industry rather than relief which is contemplated by the bill. We believe this industry should be eliminated from the bill.

W. O. AND H. W. DAVIS (INC.).

It very often happens and most of the time happens in effect, that the American price of these products is equal almost to the world price. In other words, where the commission merchants operate successfully the producer of the food product is not disturbed about it because he knows he gets as high a price, certainly, as he could if the Government handled it. Following that is a similar expression from Danziger Bros. & Rubin and many others. I will read this one:

NEW YORK, N. Y., May 1, 1929.

Senator ROYAL S. COPELAND,

United States Senate, Washington, D. C.:

As extensive exporters of apples and pears we urge you to act excluding these commodities from farm relief bill as so-called stabilization corporations financed at Government expense particularly dangerous to both export and domestic market; also other provisions of bill.

DANZIGER BROS. & RUBIN.

Let me read just one further telegram before I submit a request with reference to the others:

NEW YORK, N. Y., April 30, 1929.

HON. ROYAL S. COPELAND,

United States Senate:

We have been engaged in the business of exporting fresh apples and pears for over 50 years, and during that time have watched the busi-

ness grow from practically nothing up to its present proportions of 11,000,000 boxes and 2,500,000 barrels exported this season from the United States. This accomplishment of years will certainly be destroyed if the stabilization feature of the farm relief bill is exercised with respect to these commodities. You have but to place yourself in the position of the foreign buyer to realize the consequent disruption of normal markets. Would you as a buyer enter into forward contracts where the possibility always exists that foreign markets will be used as a dumping ground for surplus? Any disruption of foreign markets will upset domestic values in consequence. Sincerely wish that these commodities, in fact, all fresh fruits and vegetables, could be eliminated from provisions of the bill.

E. W. J. HEARTY (INC.).

I now ask that the names of the senders of the other telegrams and letters to which I have referred be noted in the RECORD. They are of a somewhat similar trend of protest against the proposal.

The PRESIDING OFFICER. Without objection, it is so ordered.

The names are as follows:

Daily Bros. (Inc.), of Rochester; Paul Judson, president New York State Horticultural Society, of Stuyvesant; the Albion Cold Storage Co., of Albion; the Growers Cold Storage Co. (Inc.), of Watport; S. H. and E. H. Frost, S. Gobel & Day, C. C. Hess & Co., John Nix & Co., C. I. and M. Dingfelder, The Kimball Fruit Co. (Inc.), Simons Shuttleworth & Franch, H. J. Latten & Son (Inc.), Herschel Jones Marketing Service, Harry Bartling, Olaf Hertzberg Trading Co. (Inc.), Robert T. Cochran & Co., International Fruit Exchange, Natale and Frank, S. Goldsamt (Inc.), H. E. Schwitters & Sons, Paxton Rivers Co. (Inc.), Dan Wulfe & Co. (Inc.), Alfred Aldridge, A. E. Meyer & Co., J. H. Schneider & Co., S. H. and E. H. Frost, L. Van Bokkelen, Cochran Turney Crispo (Inc.), L. Casazza & Co., Richman & Samuels (Inc.), T. A. Watson & Co., Egan Fickett Co. (Inc.), Miller Cummings Co., J. Hamburger & Co., N. A. Stewart & Co., P. Martori (Inc.), S. Cohen & Co., Paxton Rivers Co. (Inc.), and Victor L. Zorn Co. (Inc.), all of New York City, in the State of New York; E. L. Roberts, of Baltimore, Md.; Merrin Cravens Co., of Atlanta, Ga.; E. T. Butterworth, advisory council, Active Past Presidents International Apple Shippers Association, of Philadelphia, Pa.; D. E. McGlasson, president The Texas Wholesale Fruit and Vegetable Dealers Association, of Waco, Tex.; O. Furbringer, president M. Longo Fruit Co. and the Cicardi Bros. Fruit & Produce Co., both of St. Louis, Mo.; and E. L. Roberts, acting secretary-treasurer joint council, National League of Commission Merchants of the United States, Washington, D. C.

Mr. COPELAND. Last year we exported from the United States vegetables and fruits and nuts of a money value of \$143,600,000. Last year we exported canned and preserved goods amounting to \$677,131,000. We exported of canned vegetables and fruits \$66,429,000. I have given figures representing almost a billion dollars of fruits and vegetables and products that are now being handled largely by commission merchants.

Senators, in our efforts to help the farmers of America do we intend to strike a blow at one of the great industries of the cities in America? I do not believe that any farmer in the United States of America desires to be benefited at the expense of the merchants of the cities. I think I could subordinate my desire to serve my own constituency if it could be pointed out that the farmers of America actually are to be benefited by the pending bill, but when we are dealing with fresh fruits and vegetables, perishables, we are dealing with products entirely different from wheat and corn and cotton and the stable agricultural products.

We require warehouses and refrigeration and intricate handling of the perishable to keep them good. Do you know, Mr. President, what it means to preserve these perishable products? There must be a temperature not in excess of 50° at any time or the germs of disintegration and spoilage will thrive in the product. The products have to be kept all the time in a temperature below 50°. It costs money to buy ice and electricity and the other elements used to refrigerate the products.

Many of the commission houses have existed for years. One man whose telegram I read is a member of a firm which has been in existence over 50 years, buying products from the farmers, from the gardeners, from the orchardists, buying their products for cash. They have been processing and preserving and selling their products abroad—nearly a billion dollars' worth last year.

Farm relief? 'Yes. The able and genial Senator from Oregon [Mr. McNARY] will testify that I have stood here ever since I have been a Member of the Senate and fought for farm relief. Am I right in that statement?

Mr. McNARY. Mr. President, I think it is so generally well known that it is not necessary for me to make any extended comment, but inasmuch as the question has been asked of me, I will say that in the many activities I have been forced to

undertake as chairman of the Committee on Agriculture and Forestry of the Senate I have always found the Senator from New York most capable, able, and sympathetic, and it is pleasing to note that one coming from a great metropolitan city like New York has the vision he possesses.

Mr. COPELAND. I am very much obliged to the Senator. Of course, his statement is very nice, even if I had to extract those words of praise from an authority so great. But the point is that I want to make it clear for the RECORD, if it shall be read by anybody who does not know it, that I have stood here on the floor of the Senate year after year and tried to help the farmer, but I do not want to be repaid in that service to the farmer by an attack upon the cities of my State. This industry happens to be centered largely in the city of New York, but it is active in every city in the United States. Commission and produce merchants are found in every city in the country and when you strike a blow at that industry you strike a blow at every city in our country.

My contention is that there is no need to connect up with wheat and corn these perishable products which should not be and never can be and never have been handled in the same way that the substantial and stable products of the farm are handled. The problem is entirely different. I know there are Senators from certain States who feel that somehow or other they are going to get an advantage for their vegetables and their fresh fruits, that somehow or other, by some magic unknown to me so far as its power is concerned, such products are going to be made more valuable and the income of the growers greater. I can see nothing of the sort. I can not see how by the inclusion of these articles in the bill any grower of vegetables or fresh fruits will be benefited, but, on the contrary, if the commission merchants and produce dealers are ruined, the producers of vegetables and fresh fruits will be ruined because the major crops of wheat and corn and cotton, the stable products, will be the ones first to be handled. All the time the fear that the perishables may be included in the operations of the board will ruin the industry and the goose that lays the golden egg will die.

Mr. President, I do not know that there is anything more I can say. I do make this plea: Somebody who reads the RECORD will get it, although very few here may be influenced by it. I beg of you, Senators, in your enthusiasm to benefit and aid the downtrodden agricultural group of the country, an enthusiasm which I share, do not destroy at the same time this great industry in the cities of America. We of the cities make sacrifices for you. Who can doubt that if the price of wheat is stabilized at a price sufficient to pay the cost of production to the farmer and give him a profit, both of which he is entitled to receive, that out of that will come higher costs to the consumers of America? I am glad to see that the American Federation of Labor and the people representing the laboring groups have indorsed the bill.

We are willing to make sacrifices in the cities. Those of us who live in the great cities and recognize the necessities of the farm are willing to make the sacrifice and pay more if need be for the farm products. But I beg of you when you are voting to help the farmer, the producer, do not forget the consumers in our cities, the men who work for the great commission houses and the great produce establishments. Do not forget that the prosperity of our cities depends largely upon the prosperity of those industries. I ask you in your voting to bear in mind that we in the cities have our rights and our problems, too, and so I hope that the Senate in its wisdom will see fit to adopt the amendment which I have presented.

Mr. LA FOLLETTE. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Allen	Frazier	La Follette	Simmons
Ashurst	George	McKellar	Smoot
Barkley	Gillett	McMaster	Steak
Bingham	Glass	McNary	Stetson
Black	Glenn	Metcalf	Stephens
Blaine	Goff	Moses	Swanson
Bleasie	Goldsborough	Norbeck	Thomas, Idaho
Borah	Gould	Norris	Thomas, Okla.
Brookhart	Greene	Nye	Townsend
Broussard	Hale	Oddie	Trammell
Burton	Harris	Overman	Tydings
Capper	Harrison	Patterson	Tyson
Caraway	Hastings	Phipps	Vandenberg
Connally	Hatfield	Pine	Wagner
Copeland	Hawes	Pittman	Walcott
Couzens	Hayden	Ransdell	Walsh, Mass.
Cutting	Hebert	Reed	Walsh, Mont.
Dale	Heflin	Robinson, Ark.	Warren
Deneen	Howell	Robinson, Ind.	Waterman
Dill	Johnson	Sackett	Watson
Edge	Kean	Schall	Wheeler
Fess	Keyes	Sheppard	
Fletcher	King	Shortridge	

The VICE PRESIDENT. Ninety Senators have answered to their names. A quorum is present.

Mr. JOHNSON. Mr. President, the amendment which has been presented by the Senator from New York [Mr. COPELAND] and one which subsequently will be presented are, in my opinion, of very grave importance in respect to the pending bill and its ultimate purposes. The measure is presented here to aid a languishing industry. It is presented upon the theory that it is absolutely essential that something be done by the Congress in order that agriculture and agricultural commodities shall be rehabilitated and shall receive something of the justice which it is asserted has been so long denied them. To my mind it is an entirely illogical proposition when a bill accords a privilege to the various agricultural commodities which are to come under its provisions to say that any one or any number or any corporate aggregation of producers of a particular commodity shall have a veto power upon all others who are engaged in the production of that agricultural commodity to prevent them coming under the provisions of the bill.

In the first place, let me remark that the bill is optional in its character. It is optional in that it compels no organization and no aggregation and none of those who are engaged in the production of a commodity to come under its provisions; so that those who desire to participate in what are asserted to be the benefits of the bill may come under its provisions if they desire, and those who do not want to be affected by the provisions of the bill are to be at perfect liberty to remain outside its provisions and not to participate in the slightest degree in its terms. This, it would seem, should be ample for the entire industry and for every commodity. I repeat that if any one group engaged in the production of any commodity may deny the others who are engaged in the production of that commodity the right to participate in the benefits of the measure, then we shall have enacted a measure that will be of no benefit at all, because any one or any number of the producers of all the commodities embraced within the bill might with justice demand the like exemption, and demanding the like exemption for themselves, put upon every other individual and every other aggregation and every other corporation and every other cooperative engaged in the production of that commodity an embargo so that they could not in any degree participate in whatever benefits may be derived from the provisions of the measure.

I say, therefore, first, it is wholly illogical that there should be exempted from the provisions of the bill certain commodities, thus denying to individuals or to cooperatives engaged in the production of those commodities the right to participate in the benefits that it is asserted will be derived from this bill. It is a wholly illogical situation thus to present to us, and it becomes increasingly so and emphatically so when there may be differences of opinion among those engaged in the production of any particular commodity.

The Senator from New York states that in seeking to exempt from the operation of this bill all varieties of fruits and all vegetables, he is acting in accordance with the desires of some of his constituents. Quite the contrary is the fact with the constituents of the many of the rest of us. We say to him, in respect to those people who do not want to participate in the measure at all, "Remain outside if you desire; nothing compels you to become either a member of a stabilizing corporation or of a cooperative under the bill; you may do exactly as you see fit"; but we further say to him, our people wanting to join in what may be developed under the bill, "Do not, because you want to stay out, deny us the privilege to come in." It seems to me that is unanswerable, sir, from any standpoint.

Another amendment will ultimately be presented upon which we may argue another proposition as presented by the distinguished Senator from Washington, but suffice it for the amendment presented by the Senator from New York. He takes two generic names. He says that the bill shall not mean either of these, either fruits or vegetables, and therefore, because there are some producers of fruits or vegetables in isolated portions of the State of New York, responsive, perhaps, to the business of the State of New York, who do not desire to be embraced within this measure, all fruits and all vegetables, then, in the United States of America shall be denied the privileges under the bill. If there be anything in his argument at all, it is an argument against the entire structure of the measure rather than against the particular inclusion of those who want to be included in the designated categories.

I submit, therefore, that the amendment of the Senator from New York ought not for an instant to be entertained by the Senate.

Mr. WALSH of Montana. Mr. President, I should like very much indeed, if I could, to find myself aligned with the distinguished Senators from the State of Washington and the

State of New York and the State of Pennsylvania with reference to the particular question that is now before the Senate. I have been, accordingly, endeavoring to follow the line of argument to ascertain, if I can, what injury is likely to come to the apple growers, for instance, in those various States by reason of this legislation.

Thus far I have been unable to ascertain from what has been said what injury is likely to ensue by according the privileges of this bill to those engaged in the apple industry, for instance, in other sections of the country who desire to avail themselves of its benefits, if there are any.

Mr. McNARY. Mr. President—

The PRESIDING OFFICER (Mr. Goff in the chair). Does the Senator from Montana yield to the Senator from Oregon?

Mr. WALSH of Montana. I yield to the Senator from Oregon.

Mr. McNARY. Probably I am not best qualified to answer that question. As chairman of the committee I have received very many telegrams from apple growers and cooperative associations dealing in apples and canning them in opposition to the bill so far as it appertains to apples and pears. The central thought as expressed in these wires is that these agencies are not afraid of any provision of the bill other than that which is comprehended under the provision that specifies a stabilization corporation, and only particularly with reference to the handling of the surplus of apples and pears.

We all know that probably the greatest market for apples and pears in the raw state, particularly apples, is in England. There they have agencies which they have created after very many years of experience and toil which have proven very satisfactory for the purposes of distribution. They fear that a stabilization corporation in handling the surplus would not employ these agencies that they have created and would more or less injure them eventually and disturb the marketing conditions that now obtain, and for that reason they want to be excluded from any power the stabilization corporation might have with respect to the foreign trade and the surplus involved therein.

I can see some logic in that proposition.

Mr. WALSH of Montana. I think I can, too; but perhaps I do not arrive at just exactly the same conclusion at which the Senator from Oregon does. Let me indicate the line of thought that it suggests to me.

In the State of Washington the apple business is carried on on a very large scale, as it is in the State of Oregon and in the State of New York. These organizations have been established, and, as indicated, they carry on a very extensive business. They have been able to finance their operation successfully and to establish themselves upon a perfectly safe basis. They need no assistance; but, if this bill goes through, in other sections of the country where they have not been able thus to carry on the business on such a large scale, where they have not been able to finance themselves as these great organizations have been, where for one reason or another they have been unable to establish organizations that have been successful in operation, the growers of apples, for instance, would desire to associate themselves under the provisions of this bill and to take advantage of its operations. Those organizations, thus established, would, of course, become competitors of the organizations that are now in the field and that command it; and I can very readily understand that they want to restrict competition as much as possible. Probably they are not to be blamed for that.

My State is not in that situation. The apple-growing business was carried on for quite a number of years in the Bitter Root Valley in my State on a rather extensive scale. It produced, if I may be permitted to say so, a grade of apple that had no superior at all in the market—the Macintosh Red; but the growers, for some reason or other, were unable to organize a marketing association of sufficient consequence to be a figure in the field at all, and the industry has dwindled until at the present time it is practically no longer a factor in the apple market at all. There are other sections of my State that are in much the same situation, and I have no doubt the same thing is true in other States.

This bill would afford those people an opportunity to organize on a safe basis, to finance themselves in a way that would enable them to put their product upon the market with some chance of standing the competition of these organizations that are already in the field; and I rather suspect that so far as this opposition comes from the apple growers, as distinguished from the commission merchants, it arises from a desire to restrict competition in their particular line of business. In other words, it is a selfish opposition; and I do not criticize it as being a selfish opposition. It is entitled to be urged; but it

seems to me it ought to be taken into consideration in the determination of the question that is now before us.

Mr. DILL. Mr. President, I had not intended to discuss this amendment at this time, because I am not so much interested in the exclusion of vegetables from the operation of the stabilization corporations; but the argument made by the Senator from Montana [Mr. WALSH] seems to be directed particularly at the apple industry, and I do not know why I should not discuss it now as well as at a later period. Of course, if the amendment of the Senator from New York [Mr. COPELAND] is adopted, there will be no need for the presentation of the amendment of my colleague [Mr. JONES]; but if the amendment of the Senator from New York is defeated, I shall then ask for consideration and vote upon the amendment of my colleague, which merely excludes apples and pears from the operation of the stabilization corporations.

Mr. REED. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Pennsylvania?

Mr. DILL. Yes.

Mr. REED. Does the Senator see any justification for including peaches, for example, and excluding pears and apples?

Mr. DILL. My colleague [Mr. JONES], I think, mentioned only apples and pears in his amendment because that was the request that came from the Northwest, and there were some who object to peaches, and I see no reason why they should not be excluded; and I should have no objection, and I am sure my colleague would not if he were here, to excluding peaches also.

I want to call attention to this fact: All of the proposals for farm legislation that have been made for a number of years have looked to the handling of the surplus of staple farm products rather than the handling of perishable products. In fact, as I recall, when the farm bill passed in the last Congress we excluded from its operation fruits and perishables because it was recognized that the equalization fee should not be applied to those engaged in an industry who were opposed to it.

I have here a statement which I think probably was given to every Senator, but I think some of them may not have read it, prepared on this particular amendment by a gentleman by the name of Samuel Frazier. I desire to call attention to some of the arguments which he presents as to why apples particularly should not be included under the operation of the stabilization corporations.

He calls attention to the fact that the apple crop must be sold during the year in which it is produced. It can not be carried over from year to year.

About two-thirds of the commercial crop, and all of that portion used for by-products, is used between June and December of the year in which it is produced. About one-third of the commercial crop is stored and consumed between December and the following July. Thus the apples are on sale for 12 months of the year, and the amount of the crop held in storage is increasing to insure uniformity of supply.

For over 50 years we have been producing an exportable supply of apples. In 1926 and 1927 we exported four and a half million barrels and 7,800,000 boxes, valued at \$38,905,000. The export of this year is not complete, but it is indicated that there will be about 3,000,000 barrels and about 11,000,000 boxes exported, indicating that the export business is increasing in the boxed kind of apples and decreasing in the barreled apples.

About 20 per cent of the eastern apple crop is exported, and this is drawn largely from Virginia, West Virginia, New York, Pennsylvania, Maryland, and New England, and lesser amounts from Ohio, Indiana, Illinois, and Missouri.

The boxed-apple States—so called because of the boxes used in packing on the Pacific coast—export about 25 per cent of the crop, largely from Washington, followed by Oregon and California.

Apples exist in a great many varieties. This statement calls attention to 100 varieties; and each variety of apple seeks its own market. The Senator from Montana [Mr. WALSH] just mentioned the fact that in the Bitter Root Valley the MacIntosh Red had an unusual production. There are certain parts of the country and of the world where the Delicious apple has its own market; others where the same thing is true of the Winesap apple. In other words, you can not interchange this fruit so readily as you may interchange the more staple products of the farm.

Then I desire to call attention to these other arguments that are made here:

Apples do not lend themselves to stabilization, nor do other perishables of this kind, because they can not stand long periods of storage; and unless a stabilization corporation shall destroy a portion of the crop purchased it must be returned for sale either at home or abroad the same year, and no benefit is pos-

sible. At the present time our export sales, estimated at nearly \$50,000,000 per year, are made on an f. o. b. basis. More money is going into the growers' pockets, often three or four months before the apples are shipped, and every effort is made to export all that can be paid for.

Mr. WALSH of Montana. Mr. President—

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Montana?

Mr. DILL. I yield.

Mr. WALSH of Montana. I wish to inquire of the Senator if no apples are carried over from one season to the other?

Mr. DILL. Not from one year to the other. No apples are carried over after August or September of the year following.

Mr. WALSH of Montana. They are put in cold storage in the fall?

Mr. DILL. Yes.

Mr. WALSH of Montana. And are sold, according to the statement, and as we all understand, continuously until, say, the following July?

Mr. DILL. Yes.

Mr. WALSH of Montana. Why not carry them a little longer?

Mr. DILL. Because it has been found that it is impracticable, and that they will decay, and they develop dry rot, and they become no longer desirable for eating purposes. There have been experiments whereby apples have been kept longer; but as a practical proposition of handling the apple crop it has not been possible to keep apples more than the one season.

Mr. McKELLAR. Mr. President—

The PRESIDING OFFICER. Does the Senator from Washington yield to the Senator from Tennessee?

Mr. DILL. I yield.

Mr. McKELLAR. Of course, the manifest purpose of this bill is to stabilize and make better the price. Is not that true?

Mr. DILL. Yes.

Mr. McKELLAR. Then why should any apple grower object to the Government becoming another purchaser of the apple in order to stabilize and make better the price? I can understand how apple dealers who are controlling the crop and selling it out in a manner that is entirely to their interest might object to this bill, but how any grower of apples—and the grower is the one we are trying to protect in all this legislation—can object to having the Government come in as a possible purchaser, to having the Government step in to help increase the price and stabilize the price, is rather difficult for me to understand. I would be glad to hear the Senator on that subject.

Mr. DILL. Mr. President, I am glad the Senator asked the question, because it fits very naturally into what I am about to say, and I hope I may answer his other question with that, as to why it is important to the grower.

As I started to say, the Senator from Oregon, in answering the Senator from Montana, called attention to the fear of the apple producer that if a stabilization corporation is formed and used in any section of the country and attempts to handle the export business, it will not use the agencies that are to-day used by the cooperative apple organizations which handle our export trade.

Let me call attention to the practical operation of this bill as it probably will work out, and I think I can quote most of this, because it expresses the matter probably better than I can:

A single State may secure the stabilization corporation and two cooperatives in one State are all that are necessary. If no others apply one small producing State may secure the certificate for a stabilization corporation and proceed to operate on the apple crop of the whole country.

Suppose Georgia—

And I speak not with reference to any particular State, but using that State as an illustration—

which grows a few apples, secured the stabilization corporation. It would incorporate under the laws of the State of Georgia, and the certificate is for five years, renewable ad lib. The growers of the leading States might feel they had to come in to save themselves from the competition of the "Federal Instrument," for but one stabilization corporation is provided for a commodity.

This is the rule of force, not cooperation; true, it is not forced compliance with legal enactment but the indirect compulsion enforced by that enactment—

Mr. SHORTRIDGE. Mr. President, will the Senator yield?

Mr. DILL. I yield.

Mr. SHORTRIDGE. Would it remove some of the objections to the matter under discussion if more than one stabilization corporation should be permitted to deal with a given commodity? As the bill is now, as I understand it, there is but

one stabilizing corporation permissible to deal with a given commodity. The Senator from Montana, I think, has tendered an amendment permitting more than one stabilizing corporation with respect of a given commodity, and I have offered to-day an amendment looking toward the same end.

Mr. DILL. I doubt that that would help. I think the objection would still be very strong to the idea of having the Government interfere by disorganizing the foreign market. I want to continue to read this particular statement, on the theory of one stabilization corporation, as provided by the law.

Should the stabilization corporation proceed to function and not wish to lose money it must depress prices to the point at which it is safe to purchase to insure return of the cost incurred in storage, carrying charges, insurance, losses from rots, decay, and other causes—

That is a very considerable loss, too, in the storage business, I may interpolate—

and with one powerful buyer in the field low prices to the grower and hand-to-mouth buying by distributors will prevail, the crop sales will not be pushed the way they should, and unless the stabilization corporation shall function each and every year it will bring disaster.

If the Government will function every year, then it is the Government in business all of the time instead of part time. We can not regard this as American.

Not knowing when or where the stabilization corporation may release its purchases and knowing that they must be released during the season, naturally all public confidence will be destroyed both at home and abroad. Under the present system apples move into consumption with actual knowledge of the quantities which must be disposed of.

We can not close our minds to the opportunity for abuses which confronts us. With the peculiar combination of a perishable commodity, a stabilization corporation in control of the commodity and its products, a clearing-house system, funds from Federal sources furnished without liability for their repayment, facts gathered by Government agents and propaganda distributed by agents paid from Government funds, and a politically appointed board to make the rules governing all, whoever is in control can hold up the movement from any section of the country or that portion owned by any individual, until it has become unfit for sale and so put a district out of business without due process of law. This is not business. It is chaos.

I do not want to take more time in connection with this statement other than to call attention to a quotation here from the statement of Mr. Hoover regarding the debenture when he said that if you give the board these powers you must assume they will use them, and when we give the board the power to grant a certificate for a stabilization corporation, as we now have, we must assume it will probably use it if there is a demand from any particular community.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. DILL. I yield.

Mr. McKELLAR. I recall several years ago—I do not know exactly how many, three or four, perhaps—when I was driving down in Virginia, I saw what seemed to me to be enormous quantities of very fine apples dropping from the trees. The ground was pretty well covered with them in various orchards. It made such an impression on me that I stopped at a home in the midst of one of those orchards and asked the gentleman I saw out on the front porch why it was that something was not being done, why the apples were not being gathered and used. Apparently vast quantities of them were simply rotting. He said that it did not make any difference to him; that he had sold his apples the fall before, and it rested with the owner of them whether they should be gathered or not.

I noticed that those apples were large, light-green apples, almost white, and when I came back home I crossed the street from where I was living—at Fourteenth Street and Pennsylvania Avenue—and asked the apple vendor for one of the same kind of apples. He charged me 10 cents for it, the same kind of apple as those that were rotting, apparently by many thousands of bushels, down in Virginia just a few miles away.

If these people will thus control the prices of the apples, without regard to the supply or demand, I wonder if they are satisfied with the present arrangement, and that for this reason they do not want any interference with it. Perhaps the Senator can give me some information about that.

Mr. DILL. I may say to the Senator that his question, of course, is the same kind of question we hear continually in regard to the price paid by the consumer as against the price received by the producer and the middlemen and others who handle the product are probably responsible.

That leads me to try to answer, if I can, the question the Senator put a moment ago, which I have not come to, about the interest of the grower in avoiding the stabilization corporation being used in the apple business.

The truth of the matter is that where the growing of apples is an organized business, the grower and the selling organizations are very closely combined. In the State of Washington and in parts of Oregon the cooperative organizations of growers have their own selling agents, and they have worked it out to such a state of perfection that you can not separate the interests of the grower and the seller. The fact that we have been able to market in Europe during the past year what are estimated to be about 11,000,000 boxes of apples has taken off the domestic market such a large part of the immense crop which we had the past year that the price of apples has been held at a profitable basis, even in the face of that immense crop. It is that success, having the apple business financed both by American and foreign capital, the success of selling agencies in the apple business, that makes the producers of the Northwest at least feel that it is a dangerous step to take to form a stabilization corporation, to come in when we are so dependent upon the sales of apples abroad for keeping the domestic price at a point where the producers can reap a profit.

I recognize the appeal of the argument as it is made that they do not need to come in if they do not want to, but the point I would like to make clear is that such an argument does not mean what it seems to mean on its face. They are all affected, and as the apple industry is now organized, if a part of them go into a stabilization corporation the others are either compelled to go in or probably will suffer much more than they would if they had gone in. The very fact that the stabilization corporation is formed in certain parts of the country becomes known to the buyers throughout the world, and immediately they think there will be an opportunity within a short time to purchase fruit at a lower price on account of the dumping that will be necessary if it is to be gotten off the hands of the stabilization corporation, and then the market is upset and the export business is hindered and the added amount of fruit on the domestic market forces the price of the entire crop below the profitable point.

Mr. McKELLAR. Mr. President, would not the argument the Senator is making in regard to apples apply to any other product contemplated under this bill?

Mr. DILL. Not if it is a staple product. The point I tried to make in the beginning was that there is a difference between the staple product and the perishable product.

Mr. McKELLAR. Since the discovery of cold storage, or the invention of cold storage, whatever you might call it, are not apples a very staple crop?

Mr. DILL. Staple up to a certain point, but it has its limits, and as a practical proposition apples are not generally considered of very much value after July or August of the year following the year they are produced. Especially is that true if you attempt to move them. If you keep them in cold storage, without taking them out, you can keep them for a long time in good condition, but if you attempt to move them, as it is necessary to do, even taking them from the cold storage quarters to the cold storage car, the change of temperature endangers their value as a food and for selling purposes.

I do not want to take any great length of time of the Senate. I want to place in the RECORD certain telegrams to my colleague [Mr. JONES], who is unable to be here, at his request. A number of these telegrams are sent both to me and to him. I should like to have it noted that they are placed in the RECORD at my request for both of us, and I want to have them printed at this point in my remarks.

The PRESIDING OFFICER. Is there objection?

There being no objection, the telegrams were ordered to be printed in the RECORD, as follows:

YAKIMA, WASH., May 1, 1929.

Respectfully urge you to use your efforts to exclude perishables, including fruits and vegetables, from provisions of farm relief bill now pending in Senate, because marketing of perishables is a highly organized and efficiently functioning industry, which would be seriously disturbed if the bill were made applicable thereto, and any attempt to apply provisions of said bill to our industry would utterly demoralize it, cause withdrawal of private capital now available in both domestic and foreign trade, and cause heavy losses to producers. The perishable industry is already adequately provided with storage and marketing facilities. Foreign outlets have been developed to a high degree through private enterprise of individual shippers and marketing organizations, including cooperatives, and are being constantly expanded into new markets. So effective has been the marketing of perishables in foreign countries that for the season 1928, with the largest crop of apples in history of Northwest, exports of this product have exceeded those of any former year, and the prices obtained from foreign markets have equaled and at times exceeded those prevailing in domestic markets, with general results much better than in former heavy-crop years. For-

oreign sales of perishables are being made principally at agreed prices f. o. b. shipping points or ports in the United States, with foreign capital placed in American banks on safe and sound basis, and governmental plans such as are proposed in pending measures will wreck the entire fabric of foreign trade in perishables that has been built upon sound business principles over a long period of years. The undersigned as a grower, owning and operating several thousand acres of land devoted to production of fruits and vegetables and as an organization specializing in marketing of perishables for thousands of growers in all parts of the United States, respectfully urges you not to permit our industry to suffer the terrible blow that would fall upon it and cause untold losses to ourselves and the growers we represent should any attempt be made to revolutionize and demoralize our industry under provisions of the bills now pending under the name of farm relief. Appreciate that the fanatical and hysterical pressure being exerted on all sides in favor these, and even more drastic provisions, presents a serious individual problem to each Senator and Congressman, but no man can afford to yield to such pressure realizing the chaos with attendant loss and suffering to millions of growers that would follow the application of such revolutionary measures to the highly specialized, intricate, and vital business of marketing fruits and vegetables. Our belief is that proposed law is utterly infeasible for perishables and will never be applied thereto, but unless perishables are excluded from the bill, attempts will be made to apply its provisions thereto, resulting in long, drawn-out agitation and controversy, which, along with the ever-present potential danger hanging over the industry, will stifle further development and intimidate domestic and foreign capital and those engaged in the distribution of perishables.

AMERICAN FRUIT GROWERS (INC.),
F. E. MILLER, Regional Manager.

YAKIMA, WASH., May 1, 1929.

After careful consideration by our traffic association of the farm relief bill as introduced in Congress and considering its effect on the Northwest fruit industry if applied to apples and pears appeal to you to exert every possible effort and means to have pears and especially apples excluded from said bill. The membership of our organization includes both cooperative organizations and independent shippers controlling 95 per cent of the fruit in Yakima Valley. The resolution above mentioned was introduced by J. W. Hebert, manager of Yakima Fruit Growers' Association and seconded by A. H. Landis, assistant manager of the Yakima County Horticultural Union, which two organizations are among the most completely managed and successful cooperative fruit organizations and control approximately one-third the fruit of the Yakima Valley. Among our members are large growers, including H. M. Gilbert, the largest and one of the most successful individual growers of apples in the Northwest. Our members have grown and shipped apples and pears many years and from the experience thus gained believe that interference by a Government agency as proposed in the present market situation would be a calamity that would turn our industry back to methods involved 20 years ago in both domestic and foreign markets and the inevitable ruination of both growers and shippers of apples and pears. Careful study of apple and pear marketing will positively show that distribution and marketing is rapidly catching up with production as evidenced by the present season during which the largest crop of apples ever produced has been successfully and profitably marketed. Through the efforts of the industry, itself both cooperative and independent, the apple business has been brought from a nonprofitable consignment basis to at least 75 point cash and f. o. b. shipping point basis. There has been developed cash export business in every country of the world, nearly 12,000,000 boxes apples having been exported during the present season, of which we estimate 85 per cent was cash at shipping point or seaboard. To make it possible for any organization to dump an imaginary or real surplus into our foreign or domestic markets would totally destroy our cash and f. o. b. business and sweep aside what experienced cooperative and private growing and shipping organizations have taken years and millions of dollars to accomplish. We understand Senator COPELAND, of New York, has proposed or will propose an amendment excepting apples from the farm relief bill. If so, we earnestly appeal to you to support such amendment; if no such amendment has been proposed, we believe you will best serve your constituents' interests by introducing such amendment. We also urge you use every effort secure passage Summers bill (H. R. 2) and Borah bill (S. 108) at special session, licensing produce dealers, as these bills promise most practical and quick relief to growers and shippers of fruits and produce from losses due to unfair practices by unscrupulous dealers. H. M. Gilbert, now Washington, will confer with you and furnish you detailed arguments supporting our position.

YAKIMA VALLEY TRAFFIC AND CREDIT ASSOCIATION.

YAKIMA, WASH., May 1, 1929.

After careful consideration by our traffic association of the farm relief bill as introduced in Congress, and considering its effect on the Northwest fruit industry if applied to apples and pears, appeal to you to exert every possible effort and means to have pears, and especially

apples, excluded from said bill. The membership of our organization includes both cooperative organizations and independent shippers, controlling 95 per cent of the fruit in Yakima Valley. The resolution above mentioned was introduced by J. W. Hebert, manager of Yakima Fruit Growers' Association, and seconded by A. H. Landis, assistant manager of the Yakima County Horticultural Union, which two organizations are among the most competently managed and successful cooperative fruit organizations and control approximately one-third the fruit of the Yakima Valley. Among our members are large growers, including H. M. Gilbert, the largest and one of the most successful individual growers of apples in the Northwest. Our members have grown and shipped apples and pears many years, and from the experience thus gained believe that interference by a Government agency as proposed in the present market situation would be a calamity that would turn our industry back to methods in vogue 20 years ago in both domestic and foreign markets and the inevitable ruination of both growers and shippers of apples and pears. Careful study of apple and pear marketing will positively show that distribution and marketing is rapidly catching up with production, as evidenced by the present season, during which the largest crop of apples ever produced has been successfully and profitably marketed. Through the efforts of the industry itself, both cooperative and independent, the apple business has been brought from a nonprofitable consignment basis to at least 75 per cent cash and f. o. b. shipping point basis. There has been developed cash export business in every country of the world, nearly 12,000,000 boxes apples having been exported during the present season, of which we estimate 85 per cent was cash at shipping point or seaboard. To make it possible for any organization to dump an imaginary or real surplus into our foreign or domestic markets would totally destroy our cash and f. o. b. business and sweep aside what experienced cooperative and private growing and shipping organizations have taken years and millions of dollars to accomplish. We understand Senator COPELAND, of New York, has proposed or will propose an amendment excepting apples from the farm relief bill. If so, we earnestly appeal to you to support such amendment. If no such amendment has been proposed, we believe you will best serve your constituents' interests by introducing such amendment. We also urge you use every effort secure passage Summers bill (H. R. 2) and Borah's bill (S. 108) at special session licensing produce dealers, as these bills promise most practical and quick relief to growers and shippers of fruits and produce from losses due to unfair practices by unscrupulous dealers. H. M. Gilbert, now Washington, will confer with you and furnish you detailed arguments supporting our position.

YAKIMA VALLEY TRAFFIC AND CREDIT ASSOCIATION.

WENATCHEE, WASH., May 1, 1929.

Strongly urge exclusion apples from provisions farm relief bills. Perishability, necessitating seasonal marketing, and fact that intensive selling effort backed by intelligent advertising are characteristics apple deal differentiates it from wheat, etc. This conclusion results from 16 years' Wenatchee banking experience and thorough discussion with leading growers and others conversant with problems inherent our deal.

COMMERCIAL BANK & TRUST CO.,
By W. D. SHULTZ, Cashier.

WENATCHEE, WASH., May 7, 1929.

Admitting considerable difficulty keeping abreast almost daily changes farm relief legislation, we strongly urge your support to Jones amendment excluding apples and pears from stabilization provision farm relief bill. Undersigned represents 1,000 growers, shipping 5,000 cars apples.

SKOOKUM PACKERS' ASSOCIATION.

WENATCHEE, WASH., May 1, 1929.

A year ago we opposed the inclusion of perishables, especially apples and pears, in relief measures proposed then. We still are firmly of the same opinion, therefore urgently request use your influence for the excluding of apples and pears and other perishables from farm relief bill now before Congress.

NORTHWESTERN FRUIT EXCHANGE.

WENATCHEE, WASH., May 3, 1929.

We respectfully request that you use every effort to exclude apples, pears from provisions farm relief bills now pending in Congress. Convinced stabilization corporation especially dangerous to our export business, which is vital to welfare this industry. Representing 600 growers producing 3,600 cars apples, pears.

WENATCHEE OKANOGAN COOPERATIVE FEDERATION.

DAYTON, WASH., May 8, 1929.

Imperative apples be excluded from farm relief measure now pending.

J. G. ISRAEL,
O. F. ERBES,
H. E. PRICE,
G. H. JONES,
Growers.

YAKIMA, WASH., May 2, 1929.

Request that you support Senator COPELAND's amendment to farm relief bill excluding apples and pears from bill.

WASHINGTON FRUIT AND PRODUCE CO.

YAKIMA, WASH., May 1, 1929.

I respectfully urge you in behalf of a number of growers, dealers, and brokers intimately connected and financially interested in the Northwest apple and pear business to support and fight for the Copeland amendment eliminating apples and pears from any farm relief bill that comes before the Senate.

L. N. SMALL.

CASHMERE, WASH., May 6, 1929.

Our cooperative organization strongly urges the exclusion of fruit from farm bill.

CASHMERE FRUIT GROWERS UNION,
F. C. PAINE, Manager.

SEATTLE, WASH., May 6, 1929.

The trustees of the Wenatchee-Okanogan Cooperative Federation, consisting of 12 cooperative associations of apple and pear growers comprising nearly 600 individual growers, for whom we act as sales managers, have voted unanimously denouncing so-called farm relief bills; have urgently requested that apples and pears be exempted from all provisions thereof, and have so wired their Senators and Congressmen. We have reason to believe that our other grower clients in various parts Washington, Oregon are equally opposed. What these growers really want is complete exemption of apples and pears from all provisions of bill, but if as practical matter that is impossible, then they insist on exemption from stabilization provisions and urge your vigorous, determined support of Jones amendment and also urge ceaseless vigilance until this menace to their industry is safely avoided.

GWYN WHITE & PRINCE (INC.).

WENATCHEE, WASH., May 7, 1929.

We respectfully request that you use every effort to exclude pears and apples from provisions farm relief bills now pending in Congress. Representing 50 growers shipping 400 cars pears and apples. Convinced stabilization corporation especially dangerous to our industry.

WENATCHEE FEDERATED GROWERS.

SPOKANE, WASH., May 8, 1929.

Respectfully urge you give full support to Jones amendment farm relief bill. Farmers our district want apples and pears excluded from stabilization-agency provisions.

OMAK FRUIT GROWERS.

BREWSTER, WASH., May 8, 1929.

We are a cooperative organization of fruit growers who are strongly opposed to the inclusion of pears and apples in stabilization agency provisions of farm relief bill. We favor the Jones amendment and urgently request most strenuous efforts for its support.

BREWSTER DISTRICT UNIT.

YAKIMA, WASH., May 7, 1929.

We can not too strongly request and urge your support of amendments taking fruits and vegetables, and especially apples and pears, out of proposed farm relief bill. Our position was fully expressed in recent telegram from Yakima Traffic Association, but we, as largest and one of the most successful fruit cooperatives in State of Washington, can not refrain from expressing our emphatic opposition to such basically unsound proposals as those contained in bill. The effect of stabilization corporations or debentures will be equally destructive to our apple export business, and the loan feature to cooperatives without necessity repayment is highly dangerous to welfare of sound cooperative development. We consider these features contrary to fundamental economic principles and destructive to best interests our growers. Therefore request your support of amendments.

J. W. HEBERT,

General Manager Yakima Fruit Growers Association.

WALLA WALLA, WASH., May 7, 1929.

We feel it a great mistake to include fruit in farm relief legislation, as fruit is a perishable product, too dangerous to hold and handle outside of present regular channels of good business which have been fully worked out after many years of experimenting and hardships. The great fruit industry of this State can not withstand further experimenting which is likely to cause serious trouble and disaster. Only lower freight rates east can bring any permanent relief to this industry.

BAKER LANGDON ORCHARD CO.

WENATCHEE, WASH., May 7, 1929.

The trustees of the Wenatchee Chamber of Commerce, after advising with large majority cooperative organizations, independent groups, and shippers, indorse the Jones amendment excluding apples and pears from the stabilization provision of the farm relief bill and urge your continued efforts support this amendment.

FRED M. CROLLARD,

President Wenatchee Chamber of Commerce.

YAKIMA, WASH., May 6, 1929.

Understand strong influence being used prevent adoption Copeland amendment, but that JONES has introduced one excluding apples and pears stabilization provisions Senate bill 1. Jones amendment will be acceptable to us, as those commodities only ones produced in volume here that could come under proposed plan. Please insist on passage Jones amendment at least.

YAKIMA VALLEY TRAFFIC AND CREDIT ASSOCIATION.

HOOD RIVER, OREG., May 7, 1929.

Fully concur wire from Hood River Traffic Association and urge your support Jones amendment excluding apples and pears from stabilization agency provision.

APPLE GROWERS' ASSOCIATION.

YAKIMA, WASH., May 2, 1929.

Have had joint conference with Yakima Valley Traffic and Credit Association regarding farm relief bill now being considered. The Yakima Chamber of Commerce, representing 960 business men and growers of Yakima Valley, is strongly opposed to inclusion of apples and pears in relief bill. Inclusion these perishable commodities in measure can do nothing but wreck an order of affairs which has been built up and improved over period of 20 years. We ask your strongest efforts to change bill to leave out apples and pears and urge renewed effort for early passage of Summers bill (H. R. 2) and Borah bill (S. 108). We concur in arguments presented you by wire even date by above association.

YAKIMA CHAMBER OF COMMERCE.

Mr. DILL. I will not take more time of the Senate at this time. Personally, I have no particular desire to see vegetables included in the exclusion amendment, but I think I shall probably vote for the amendment of the Senator from New York, and then if that is defeated, I shall offer an amendment of my own.

Mr. HEFLIN. Mr. President, before the Senator takes his seat, I would like to ask if it is his contention that the proposition which he now presents that the apple growers remain out of the bill is that it will be best for all apple growers?

Mr. DILL. I believe it will be for the reason I have tried to make clear that if the entrance of a stabilization corporation from any part of the country results in upsetting the export market, the stopping of the exporting of that number of boxes of apples that otherwise would be exported throws them on the domestic market and forces the price down to the apple growers all over the country.

Mr. HEFLIN. And that the cooperative associations already in existence here and abroad take care of the situation now to the satisfaction of the apple producers?

Mr. DILL. I think that can be fairly stated. Of course they can not handle a crop as big as we had this year, when we had the biggest crop in the history of the country, but owing to the well-organized cooperatives in the apple industry where it is conducted on a larger scale, we have been able to increase our export sales and will increase them to a greater extent this year, and for that reason the organized part of the apple industry especially is anxious to avoid anything being done that might upset the well-organized arrangements which now exist.

Mr. VANDENBERG. Mr. President, there is a very general desire among fruit and vegetable growers and producers in the Middle Northwestern States to maintain within their optional control whatever benefits this legislation prophesies for agriculture. I think they feel, speaking broadly, that the prospectus for agriculture carried in the bill is a rather undeveloped thing but that if in its ultimate helpful expansion it discloses advantages which perhaps may or may not now be foreseen, but which may become very acute and very specific, they want no present proscription written into the bill which will definitely and permanently foreclose them from those ultimate advantages and opportunities.

So far as the potato situation is concerned—and, of course, under the terms of the amendment of the Senator from New York [Mr. COPELAND] potatoes would be excluded from the operation of the bill—I fail to see how there can be any argument in favor of having this legislation apply to any crop or any commodity which would not be a decisive argument for applying it to the potato as a commodity and as a basic crop.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. VANDENBERG. Certainly.

Mr. COPELAND. If the Senator will permit, I desire to modify my amendment so it will read as follows:

As used in this act the words "agricultural commodity" mean an agricultural commodity which is not milk or perishable vegetables or a fruit, except grapes: *Provided, however*, That this subparagraph shall not apply to the provisions of section 9.

One reason why I interrupt the Senator from Michigan is because in this way potatoes will not be excluded from the bill.

Mr. SACKETT. Mr. President, may we have the modified amendment read at the desk, so we can all hear it?

The PRESIDING OFFICER. The clerk will read the amendment as modified.

The CHIEF CLERK. On page 25, and immediately following subparagraph (d), insert a new subparagraph reading as follows:

(e) As used in this act, the words "agricultural commodity" mean an agricultural commodity which is not milk or perishable vegetables or a fruit, except grapes: *Provided, however*, That this subparagraph shall not apply to the provisions of section 9.

Mr. VANDENBERG. The proposal of the Senator from New York, of course, undertakes now to meet the first objection to the proposed exemption. Lest there be any doubt as to whether that particular change ought to occur I present one exhibit, namely, the statement of the executive secretary of the National Potato Institute, whose language is as follows:

Representing the potato growers and shippers of all sections of the United States, who ship approximately 270,000 carloads annually, we respectfully petition that you use utmost efforts to block Copeland amendment eliminating fruits and vegetables from participating in farm relief legislation. The McNary bill as first introduced would be of great, permanent, and lasting benefit to potato and other perishable industries, materially assisting one-third of farmers of the United States who produce fruits and vegetables.

We pass on from potatoes.

Mr. COPELAND. Mr. President, will the Senator yield for a moment?

Mr. VANDENBERG. I yield.

Mr. COPELAND. Let us have it clear that whatever the language of the amendment as presented, it is intended specifically to exclude potatoes, so that that particular criticism may be answered. I may say that as I view it that particular crop might be used under the same conditions that would be used in handling the other stable crops of the country. It seems to me entirely reasonable that potatoes should be excluded from the amendment.

Mr. VANDENBERG. I thank the Senator for that concession.

Mr. WALSH of Montana. Mr. President—

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Montana?

Mr. VANDENBERG. I yield.

Mr. WALSH of Montana. I would like to be advised as to just how it is that the amendment as it is now proposed excludes potatoes from the exception intended to be expressed.

Mr. COPELAND. Because under the technical language used to describe vegetable, a "perishable commodity" does not exclude potatoes. It includes only perishable vegetables and the potato is not regarded as a perishable vegetable.

Mr. WALSH of Montana. Regarded by whom?

Mr. COPELAND. By the trade, by the Agricultural Department, by those who have the technical knowledge of that particular line of product.

Mr. WALSH of Montana. I always imagined potatoes were at least as perishable as apples.

Mr. BORAH. Mr. President—

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from Idaho?

Mr. VANDENBERG. I yield.

Mr. BORAH. The Senator said the Agricultural Department does not regard potatoes as perishable. I do not know whether the department may have issued any bulletin to that extent or not, but potatoes certainly are a perishable commodity, and extremely perishable under certain conditions.

Mr. WALSH of Montana. I should say they are perishable in a high degree.

Mr. COPELAND. May we for the purpose of the discussion at the moment leave it here with the understanding that we will find language to make it clear that potatoes are excluded from the operation of my amendment?

Mr. BORAH. The language is at hand in the word "potatoes."

Mr. REED. Mr. President, will the Senator from Michigan yield for a suggestion?

Mr. VANDENBERG. I yield.

Mr. REED. Since all Senators seem to be in agreement and it is a mere matter of expression, I should think that if the amendment were changed to read this way it would meet with everyone's acquiescence:

As used in this act the words "agricultural commodity" shall include potatoes and grapes, but shall not include any other vegetables or fruits, and shall not include milk or milk products.

Mr. COPELAND. I have no objection to that.

Mr. BORAH. Will the Senator read it again?

Mr. REED. I suggest that it be changed to read this way:

As used in this act the words "agricultural commodity" shall include potatoes and grapes, but shall not include any other vegetables or fruits, and shall not include milk or milk products.

Mr. JOHNSON. Mr. President, is it the intention of the Senator to exempt from the operation of the act, therefore, apples, pears, plums, prunes, and all fruits?

Mr. REED. Exactly. I think that is the intention of the Senator from New York.

Mr. JOHNSON. Is that the intention of the Senator from New York?

Mr. COPELAND. Yes.

Mr. REED. I think that is what we ought to agree to.

Mr. VANDENBERG. Whatever the technique of the phraseology regarding potatoes is to be, I think the greatest safety lies in defeating the entire proposal of the Senator from New York, because the potato is but one of many commodities involved, and the others, from my point of view, are equally deserving of this bill's protection and stimulus.

The Senator from Pennsylvania [Mr. REED] said a few moments ago that we should be nationally minded in approaching the problem, and I concede that is entirely correct. But it has occurred to me as quite appropriate that I should refer to the men of Michigan who are most intimately familiar with the problem to discover what the Michigan nationally minded attitude ought to be. There has been a great deal of confusion of thought, but apparently the confusion is rapidly being straightened out.

I secured a list of the leading apple growers and producers of the Commonwealth of Michigan, which is one of the great apple States of the country. I sent them the specific categorical inquiry, "Do you want to be in or do you want to be out of the farm bill?" With but few exceptions the almost unanimous answer is that the Michigan apple grower and the Michigan apple producer wants to be included within the bill. In other words, he wants to remain where he is and he wants the amendment of the Senator from New York defeated.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. VANDENBERG. Certainly.

Mr. COPELAND. Did the Senator also send a similar inquiry to every commission and produce man in Michigan?

Mr. VANDENBERG. No. I understand the bill was for farm relief and not for middlemen's relief.

Mr. JOHNSON. Mr. President, will the Senator yield?

Mr. VANDENBERG. Certainly.

Mr. JOHNSON. There is exactly the nub of the proposition. It is a contest between the grower on the one hand and the commission merchant on the other hand. I think the Senator from New York will concede that practically is the fact.

Mr. COPELAND. Of course it is.

Mr. JOHNSON. Exactly.

Mr. COPELAND. But are we going to destroy the very machinery which has made possible the marketing of vegetables and perishables in order that we may satisfy the yearnings of a few growers who think that somehow or other they see a millennium in that particular feature?

Mr. JOHNSON. Whence comes the prosperity of the men of whom the Senator is speaking? From the growers. For whom is the bill intended? For agriculture and agricultural commodities, not for middlemen and not for speculators.

Mr. WALSH of Montana. I understood the main purpose of the bill was to cut out the middlemen's profit.

Mr. JOHNSON. Exactly. It is to aid agriculture and to aid agricultural products, not speculators nor middlemen nor jobbers. They take care of themselves.

Mr. BORAH. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. LA FOLLETTE in the chair). Does the Senator from Michigan yield to the Senator from Idaho?

Mr. VANDENBERG. I yield.

Mr. BORAH. The proposition goes much farther than that. It is proposed that the middleman shall deny all men the right to get in if they want to. It is proposed that they shall be deprived of the initiative to join the proposition if they think it is for their best interests to do so. It is undertaking to

constitute a complete monopoly for the middlemen and to provide that in no other way shall business be done than that in which they have been doing it. I think it is not only unfair, but it seems to me it can not be defended from a legal standpoint.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. VANDENBERG. Certainly.

Mr. COPELAND. This shows the unfortunate necessity of making a speech with no one present to hear the presentation of the argument and then having to make the speech and present the argument again. I went all over that this morning in great detail.

If it be the purpose of this bill not alone to help the farmer but also to destroy the cities, all right; go ahead. The men who are engaged in the production of fruits and vegetables have never failed to get a price for their products as high as the world price. We are now and have been for years discussing the question of the surplus grain, cotton, and so forth, as to which the world price fixes the price of the domestic producer. Here we are dealing with products as to which there has been no failure on the part of those handling them to see that the producers get even better than the world price.

I can not follow any sort of argument which seeks to give all the benefit to the farmer. Those who live in the great cities of America should be accorded some rights. Here are industries which have been financed and developed, great refrigeration and storage plants have been built up, and the investment of millions of dollars made, and now it is proposed to wipe them all out in order that the middleman, who in this particular instance has not abused the producer, may be wiped out and an industry built up through years of effort destroyed. I can not follow the logic of that sort of argument.

Mr. VANDENBERG. Mr. President, I conceive there is no proposal here to destroy anything or anybody which or who is a legitimate part of the picture in its relation to the marketing of agricultural products. The middleman deserves and must have a square deal. But the farmer is our immediate concern. So far as the marketing of fruits and vegetables in Michigan is concerned—and that is a major market and a major producing area—one of the finest and most useful factors which has been developed is the cooperative movement; and the cooperative voice of the fruit and vegetable industry in that great area is unanimous, with possibly but one or two exceptions, in favor of being left with the optional privilege of having the same consideration under this agricultural bill that other products may enjoy.

I repeat that this roll call is practically unanimous. In just one instance is there a fruit exchange in the State so far as I have been able to discover in which there is any contrary opinion, and I repeat that I sought opinions by categorical questionnaires.

I have not undertaken to discover what the commission merchants think; I did not conceive that such an inquiry is fundamentally involved in the objective toward which we aim our efforts, because there is nothing in the scope of the preamble of the measure which calls upon me to consult others than the original grower and producer, the original agriculturist, in attempting to discover what his necessities may be.

Mr. COPELAND. Mr. President, will the Senator from Michigan yield to me?

The PRESIDING OFFICER. Does the Senator from Michigan yield to the Senator from New York?

Mr. VANDENBERG. I yield.

Mr. COPELAND. Has the Senator read section 9 of the bill relating to the clearing houses?

Mr. VANDENBERG. I think so.

Mr. COPELAND. If the Senator will read the language on page 18, line 2, he will find that it provides:

Cooperative associations handling the commodity, independent dealers, handlers, and/or distributors of the commodity shall be eligible for membership in the association.

That is a part of the bill subsequent to the provisions that we are now discussing. My amendment seeks to leave in the bill that particular feature, in order that in case of emergency it may be applied by the board in a proper way. In that event, the commission merchants and the produce men, of whom I have spoken, would be given full consideration under the bill.

Mr. VANDENBERG. In undertaking to analyze such fears as I have heard expressed from Michigan regarding the operation of the bill, I have discovered only one or two criticisms which may be specifically identified, and it seems to me that a slight change in the body of the bill itself can adequately protect against any such dangers. I am thinking now along the line partially indicated by the distinguished Senator from Montana. I think it is a weakness in the bill that a stabilization corporation can be invoked in the case of a given commodity

without an expression of the affirmative voice of a reasonably large percentage of those engaged in the production of that commodity, because otherwise a stabilization corporation might be precipitated upon the producers of such a commodity against the wishes of a major portion of such producers.

In the machinery which the bill sets up preliminary to the organization of a stabilization corporation is the provision which requires an advisory commodity council to be formed. The presumption, I suppose, is that the advisory commodity council is to have something to say about the stabilization corporation, whether it shall be organized, when and how and where; but there is nothing in the bill which requires that consultation or that consent. It seems to me that it would save the situation at that particular point if the bill were amended so as to require the affirmative consent of two-thirds of the advisory commodity council before a stabilization corporation shall be invoked.

Then it seems to me it is absolutely impossible to subdivide all commodities into identifiable units. I am of the opinion that there should be some latitude which would permit the organization of more than one stabilization corporation as affecting a given commodity if and when the Federal farm board discovers that one stabilization corporation alone can not hope adequately to cope with the situation. Both those subjects are covered in the amendments which I have taken the liberty of presenting and which lie upon the table.

Now, to sum up—and I did not intend to occupy any of the time of the Senate at all—I believe that with these or kindred corrections in the body of the bill there will be nothing left in it by way of menace against which legitimate criticism or formidable fears may be aimed.

I sincerely hope that the amendment of the Senator from New York, as well as the amendment of the Senator from Washington, will be defeated, so that fruits and vegetables in all of their subdivided relationships may retain the option of getting whatever ultimate benefit may be developed and disclosed in the expansion of this new program of farm relief.

I present this view as the surest reaction I have been able to obtain from this type of agrarian activity in Michigan. From the farm bureau, from the fruit and vegetable exchanges, from individual growers and producers, this is the uniform verdict with but slight exception. I shall not cumber the RECORD with these telegrams, but their trend is clear and distinct. It confirms my own abstract view. We are launching a great experiment in behalf of agriculture. It will be guided by sanity and reason and sound experience as personified in such a type of Federal farm board as President Hoover may be wholly trusted to ordain. It is my view that fruits and vegetables and their great sector of American agriculture should not be foreclosed in advance from optional participation in whatever dividends of advantage may be subsequently disclosed.

Mr. REED. Mr. President, I rise with diffidence to a discussion of this bill, because I know rather less about farming than any of the other subjects of which I am ignorant. [Laughter.] I have not time to list all of the subjects about which I know nothing, but I will admit, to begin with, that farming is one of them.

If we are going to bring relief to a part of this great industry, surely the recipients of that relief ought to be willing to receive it. It does not seem to be quite consistent with American ideals that we shall force economic medicine down their throats as we would administer medicine to a horse. Those engaged in these industries are sufficiently intelligent to know what they need quite as well as is a Congress composed largely of lawyers, and I have been very much impressed, not by letters from middlemen or commission merchants, although they are in a perfectly lawful business and are entitled to be heard, but by letters which have come from the officials of cooperatives formed to expedite and facilitate the marketing of these products. How can we answer such a letter as this, for example, which comes to me from the president of the Dairymen's League, speaking for the action of the board of directors of the league? This is what he says:

The board of directors of the Dairymen's League Cooperative Association, together with 50 elected representatives of farmers, known as subdistrict presidents, representing 40,000 producers in this milk shed—

Whatever that may be—

have gone on record as opposing the present bill.

Then at great length he narrates their objections to the bill, none of which seems to be met by the bill in its present form as we are called on to vote on it. That letter is signed by Mr. Fred H. Sexauer, president of the Dairymen's League.

The next letter to which I shall call attention comes from an apple grower in Pennsylvania. I apologize for the frankness with which he writes, but I think the meat of what he says is interesting. In a letter dated May 4 he says:

The amazing thing about this so-called farm relief legislation is that very few, if any, of the persons and organizations to be affected are in favor of the bill either as drawn or as passed by the House. Yet it is being jammed through. For example—

He says—

the National Cooperative Milk Producers' Association—

That is an organization different from the one whose letter I read a moment ago—

the National Cooperative Milk Producers' Association, composed of 43 groups and doing a business of over \$300,000,000 per year, would like to be out of the bill. They are fearful of the stabilization and loan provisions as proposed and do not believe in the artificial spellbinding, evangelistic stimulation of further cooperatives at Government expense.

Then he proceeds at considerable length to give his reasons in detail.

Mr. BORAH. Mr. President—

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield to the Senator from Idaho?

Mr. REED. I yield.

Mr. BORAH. There is no reason why he should not remain outside of the provisions of the bill.

Mr. REED. There is a very good loophole provided for his staying out of the stabilization corporation; but what is to happen to him if his competitors go into a stabilization corporation and receive all this Government stimulation in their competition with him?

Mr. BORAH. Exactly; but should we deny one citizen whose judgment is that he should go in the right to do so because another citizen's judgment is that he could do better out of it?

Mr. REED. If a great majority of those engaged in the apple industry or in the dairy industry wish their industry to be left out, we ought to hesitate to put that industry in merely because a few people want it in.

Mr. BORAH. If the Senator will pardon me, we put no industry in; we simply give an opportunity to the producer to come in.

Mr. REED. Precisely.

Mr. BORAH. One reason why I was so much opposed to the McNary-Haugen bill was that I thought it undertook to compel all to come in.

Mr. REED. But I think in practice this bill does compel them. Almost every State produces apples for sale in the general market. Washington, Oregon, and California may not want to come in, but the producers in one of their neighboring States, producing a relatively small quantity of apples, may organize a stabilization corporation. One per cent of the people engaged in the industry of growing apples may organize a stabilization corporation which will vitally affect the interests of the other 99 per cent.

Mr. BORAH. I think that is the individual right of anybody engaged in the industry. If he wants to come in, he ought to have a right to do so; if he wants to run his business in a certain way, he ought to have the right to do so; if a farmer wants to run his farm in a certain way, he ought to have a right to do so; it does not make any difference if a large majority desire to do otherwise.

Mr. REED. I agree with the Senator that if a farmer wants to run his farm in a certain way he ought to have the right to do so, but I do not agree that if he wants the Government to run his farm for him and give him handicaps in competition out of the Government Treasury that he ought to be allowed to do so. I do not believe that.

Mr. BORAH. Then the philosophy of the Senator would be against the bill as a whole.

Mr. REED. We will discuss that when we get up to the final passage of the bill; but I say that at the present time, where the great majority of the producers of dairy products and of apples want to have their industries left out of the bill as a whole, their wishes are entitled to be respected.

Mr. BORAH. Yes, to be respected; but if there is a certain class, although it may be a very small class, who feel that they are in a position where they ought to have this assistance, where they necessarily must have this assistance in order that they may survive, should we deny them that right because some one on the outside thinks it is to his interest that they should not have it?

Mr. REED. Yes; if the vast majority of the industry want to continue on the present individualistic basis, I should say that their wish ought to be controlling on us.

Mr. BORAH. That would be to give the majority the right to control the entire business.

Mr. REED. It would give the majority the right to be heard in refusing to have the Government meddle in their business.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. REED. I yield.

Mr. COPELAND. Let me say this to the Senator from Idaho: As I see it, if we are to permit various producers of the perishables that we have been discussing to form organizations, to have the benefit of Government funds, to buy up products, and then, when the board feels so disposed, to sell them on the world market, and glut the market at the time when private enterprise has a supply of these products to sell, we drive the private people out of the business and I think immediately ruin the vegetable and fruit business. It will not be the fact, but the fear, for I can not conceive it possible that sufficient funds should be given from a Government source to take the place of the intricate machinery necessary to handle the perishables.

Mr. BORAH. But, on the other hand, we are framing this law upon the theory that the different industries affected by it must be assisted, or else they will be destroyed.

Mr. COPELAND. But that applies to these stable crops, like wheat and cotton and corn, which it is impossible to handle through any machinery their producers can build up. They can not build up the machinery necessary to handle those great big industries, and therefore we are providing a way for their crops to be handled. This other industry, however, is now prospering under machinery already in existence, and if the Senator's way were had that machinery would be destroyed, because no longer could the commission and produce men get credit, no longer could they get the funds necessary, because lots of that is foreign money which is brought here. That would put out of business the machinery which now handles in a successful and satisfactory way the vegetables and fruits.

Mr. BORAH. Mr. President, leaving out the dairy industry—to which I think, by reason of its remarkable organization and efficiency, my remarks do not apply—there are a great many people engaged in the fruit and vegetable industry who are praying to be relieved from the operation of the machine of which the Senator speaks.

Mr. COPELAND. But in order to be relieved of the machinery of the machine, the Government would have to build refrigeration plants and all the intricate apparatus necessary to carry on the business. It stands to reason that the Government would not do that; but, at the same time, there would be all the time the club over these produce men and commission men that that might be done. Consequently their business will break down, and in the end the producers of these particular products will be infinitely worse off than they are at the present time.

Mr. BORAH. In view of the fact that this is optional, does not the Senator think that extending the privilege upon the part of the Government may serve as a club to make the machine more considerate to the producer?

Mr. COPELAND. I think it will—

Mr. BORAH. Then let us leave it there, and see what it will do.

Mr. COPELAND. I think it will serve as a club, but it will be a club applied so effectively in its menace that the machine spoken of by the Senator will be destroyed, and destroyed at once.

Mr. BORAH. No, no.

Mr. GLASS. Mr. President, I had supposed that the alleged benefits of this bill were optional to the various industries affected; but, as the Senator from Pennsylvania has pointed out, that is not a fact. If a mere segment of an industry can form an association which in effect will control the whole industry, I do not think that ought to be done.

Mr. REED. That is exactly the way the bill stands, and now they are going to make confusion worse confounded by proposing an amendment that there shall be more than one stabilization corporation in the same industry at the same moment; and if that will not bring chaos, I can not imagine anything that would.

Mr. LA FOLLETTE. Mr. President—

Mr. GLASS. My State is the third largest apple-growing State in the United States, and, along with Washington and New York and other great apple-growing States, the apple growers of that State have, by travail and long experience and tedious work, built up an industry. They have established their warehouses; they have established their barrel-manufacturing plants; they have their cold-storage plants. To say now that a great industry like that may be even incidentally controlled by a mere segment of fruit growers in the country is something that I do not think ought to be done.

Mr. BORAH. Well, Mr. President—

Mr. REED. Will the Senator permit me there? I suppose there is no finer exhibition of intelligent agricultural work than you will find in that apple belt that runs up through Hancock, Md., and down into Virginia, and up into Pennsylvania, and the other great apple-growing district in western New York, and the greatest of all, in the Columbia Valley in Washington. Those three apple belts have employed the most scientific methods of growing. Their orchards are most intelligently managed. It is one branch of farming that I do know a little about, because I have been interested in it in all three districts for a good many years. Their warehouse system, their marketing system, is thoroughly intelligent, and in seasons of ordinary crops they can count on a moderate profit, not because of any corner that they make, but because they have developed almost a world-wide market by intelligent marketing systems. They have developed for themselves a clearing-house. They do not send 20 carloads of apples to a market where there is a demand for only five or six. In all those ways they have immensely improved over the haphazard methods of a quarter of a century ago.

To say to those people, "All this marketing system that you have built up shall go into the discard, and a stabilization corporation forced upon you by a State which does not produce one-tenth what you produce is going to take the place of all your marketing system," and to say that to them against their will, to force the medicine down their throats as if we were dosing a horse, as I said a while ago, is not only unintelligent on our part, but it is highly unfair to those producers.

Mr. WHEELER. Mr. President, will the Senator from Pennsylvania yield?

Mr. REED. I yield.

Mr. WHEELER. Section 5 (a) provides that—

Stock or membership corporations organized under the law of any State may make application to the board, in such manner as the board shall by regulation prescribe—

And so forth. In other words, for instance, a stabilization corporation might be organized in Montana for the purpose of controlling the apples produced all over the United States.

Mr. REED. That is right.

Mr. WHEELER. As the Senator says, the people in Pennsylvania who have built up this great organization may say, "Well, we would like to build up a stabilization corporation, providing that we can control it down here in Pennsylvania, but we do not want to be controlled by this group who have organized out in Montana," and vice versa; but it is discretionary with the board as to whether or not they shall recognize the stabilization corporation that is organized by a certain group in Pennsylvania or a certain group in California or a certain group in Montana. It seems to me there is going to be a great deal of confusion with reference to that.

Mr. REED. I think so, too.

Mr. BORAH. Mr. President, I hope the Senator from Pennsylvania will not take his seat, because I am seeking information. I should like to understand how a small group such as that of which the Senator speaks, desiring to avail themselves of the benefits of this bill, could force this larger group into the governmental operation.

Mr. REED. Under the bill as it stands any unimportant factor in the industry can, with the consent of the board, create a stabilization corporation. If the first section of the bill means what it says with reference to the powers of that corporation to realize the objects stated, it means that the very broadest power of rigging the market, so to speak, at Government expense, is given to that stabilization corporation.

You can not put up the price of Delaware apples without affecting the price of Pennsylvania apples. You can not change the price of Idaho apples without affecting the growers all along the Pacific coast. That stabilization corporation, representing an unimportant part of the industry, has the assistance of the United States Treasury in cornering the market. That is practically what it means.

Mr. BORAH. What the Senator means to say is, as I understand him, that not by the terms of the law itself, but by reason of the fact that the law gives authority for the organization of a corporation, the corporation perhaps could be more successful in dealing with apples than the private corporations, and therefore would drive the private corporations out of the market.

Mr. REED. I think that is what would happen.

Mr. BORAH. Then it would be only proof of the fact that the governmental operation is more successful than the private operation.

Mr. REED. Absolutely. It is bound to be as long as it has a conduit to the United States Treasury to pay all its losses. Nobody can compete with that.

Mr. GLASS. Mr. President, there is something more involved in the matter. The people who have built up a successful industry want to manage their own business affairs. They do not want any strutting satrap of the Federal Government nosing around in their business.

Mr. REED. Absolutely.

Mr. GLASS. That is one of the most annoying and exasperating things that I can think of. I have had experience with it.

Mr. BORAH. I am thoroughly in accord with the Senator about satraps, but what I am thinking about is whether or not we are going to extend any aid to those who we have been led to believe are in actual need of aid; whether or not we are going to give any governmental support to those who are in need of governmental support, who have not yet been able to come under the beneficent influence of these organizations.

Mr. GLASS. I will say to the Senator that I supposed we were aiding an industry, not individuals; not a mere segment of an industry. If a great industry is languishing the purpose of this legislation—I do not say that it will be effective—but the purpose of it is to aid the industry, but not to enable a mere inconsequential portion of an industry to organize a stabilization corporation and take possession of the business of a great industry.

Mr. BORAH. I will say that one thing that has come out of this debate—and that is the most encouraging thing that has happened in regard to this bill—is that there seems to be a belief that it will operate and be effective.

Mr. DILL and Mr. WALSH of Montana addressed the Chair. The PRESIDING OFFICER. Does the Senator yield; and to whom?

Mr. REED. I yield to the Senator from Washington.

Mr. DILL. Mr. President, I want to call the attention of the Senator to the fact that under the amendment of my colleague [Mr. JONES] the right of the Government to aid the cooperatives still continues. The right of the cooperative to secure money still continues. The thing that we are objecting to is the establishment of a stabilization corporation which will go into the market for the purpose of controlling the price of the apples that are produced throughout the United States.

Mr. BARKLEY. Mr. President, I desire to ask the Senator from Pennsylvania a question. I am not very familiar with the intensive cultivation or marketing of apples or other similar fruits; but in the course of the remarks of the Senator from Pennsylvania he suggested that if apples from Delaware were caused to rise in price, the rise would naturally be reflected in other States.

Mr. REED. And, of course, a drop in price in the same way.

Mr. BARKLEY. Is there any objection on the part of the producers of apples in other States to the raising of the price in those States as a reflection of the raising of the price in any State? Is that an objection to the provisions of this bill?

Mr. REED. No; but the converse of the proposition is true—that if the operations in Delaware result in a lowering of the price, that will be reflected on the producers in other States.

Mr. BARKLEY. Is not the very object of the stabilization corporation the prevention of a lowering of the price?

Mr. REED. Let me give a tangible illustration which I think will make it plain. On page 10 of the bill it is provided that—

A stabilization corporation for any agricultural commodity shall have authority to act as a marketing agent for its stockholders or members, and to purchase, handle, store, warehouse, process, sell, and market any quantity of the agricultural commodity or its products, whether or not such commodity or products are acquired from its stockholders or members. Purchases or sales of the agricultural commodity or its products by the stabilization corporation shall be made in the open market in such manner as to effectuate the policy declared in section 1 of this act.

It is to minimize price fluctuations by controlling the surplus. In other words, that is a great deal of language vesting in these corporations the power to establish a corner in the market.

Mr. BARKLEY. They could only do that by going out into the open market and purchasing the available supply of apples or other fruits. If they do that, they naturally create some competition, which would inevitably raise the price, would it not, to the producer?

Mr. REED. As long as that commodity exists on earth, sooner or later it will find its way to market, and any stimulation of the price by cornering or engrossing the crop to-day will be reflected in a collapse later.

How would the Senator like to be in charge of a cooperative which had established its own marketing system in, let us say, the State of Washington or the State of Virginia, and then suddenly find himself in competition with a concern having

those powers and the Government's bank account to draw on to back it up? I do not think he would be very happy.

Mr. BARKLEY. The same situation might apply to any co-operative organization handling any commodity. There is no way to compel it to take advantage of whatever advantage this law offers to it and seek the assistance of the Government if it does not see fit to do so.

Mr. COPELAND. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield to the Senator from New York.

Mr. COPELAND. Is there not another answer, Mr. President? Does it not come down to the fact that we must be fish or fowl? If the Government is willing to go into the business of taking care of all the perishables, of all fruits and of all milk, so that it can maintain a market and handle the surplus in foreign lands advantageously, that is one thing, but that is not what the Government will do under this bill, so far as fruits and vegetables are concerned.

What they may do is to assist some cooperative somewhere, as the Senator from Pennsylvania has said, but, as a result of the fact that the United States Government, with all the gold of our country, is back of these private industries, these commission men and produce men, who are now financed, perhaps, by foreign capital, they will have over them the threat that the Government may extend its operations, and therefore they will go out of business. That is just as inevitable as anything can be. So when we get through we will have ruined the industry, so far as the producer is concerned.

Mr. BARKLEY. I want to say to the Senator that I rose primarily to seek information on this subject from the Senator from Pennsylvania, and any other Senator, too, because I confess very frankly that I am not very familiar with that phase of this proposition. But can not the same argument be made against a stabilization corporation as to any other commodity, when private enterprise may be engaged in the purchase and the sale of that commodity?

Mr. COPELAND. If the Senator will permit me to answer that question, Mr. President, we have no great cooperatives or great organizations or any machinery to handle the surplus of wheat and corn and cotton.

Mr. WHEELER. There are the great warehouses.

Mr. COPELAND. All right.

Mr. DILL. Those commodities are not perishables.

Mr. COPELAND. They are not perishables; they can be handled and fed out as the time comes. But here we have in mind products which may perish in a few weeks, and if the Government goes into competition with private enterprise in buying up some of the products, what is it going to do with its purchases? As soon as a favorable opportunity comes, it is going to dispose of its supply in the domestic market or abroad. That is going to glut the market, destroy the private concerns, and to the Government it does not make any difference what the price received may be.

Mr. BARKLEY. If these organizations, backed up by the Government, are able to obtain a sufficient quantity to glut the market, if they were to sell it, would not that bring about an automatic increase in the price of the product to the producer, for whose benefit this bill is supposed to be enacted?

Mr. COPELAND. The answer is this, that if the Government is willing to take over all the business and share its profits with the producer, all right; but is the Government prepared to take care of cotton and corn and wheat and these other staple crops, and, in addition, to build up a business capable of handling a billion dollars' worth of exports in the vegetable and fruit line? If it is, all right, go ahead; but if the Government proposes to leave in the hands of private capital and private enterprise an industry which is now in the hands of private capital and private enterprise, and have it prosper, it must leave it alone and not put over it the sword of Damocles, where the thread may any time be cut, to bring disaster to that enterprise. Of course, the result of it would be that they would have to go out of business. They could not get the capital to operate.

Mr. BARKLEY. I will say to the Senator that I have had no communication at all with anybody on the subject of fruits and vegetables, except the letter I put into the RECORD a day or two ago from the National Horticultural Association, and this question has caused me some trouble and concern. I am seeking information in order to be enlightened as to how to cast my vote upon this matter.

Mr. JOHNSON. Mr. President, I want to call the attention of the Senate to the fact that the amendment now presented by the Senator from New York exempts from the operation of the bill all citrus and deciduous fruits, and I want as well to impress the Senate with the fact that the argument presented upon the floor of the Senate is that because there are certain institutions to-day conducting a business, we shall forever be denied the

right to aid agriculture because those institutions think they might be injured or affected by the operation of this measure. We never could do anything for agriculture under the circumstances.

Mr. COPELAND. Mr. President, I have perfected my amendment and ask that it may be received in order that it may take the place of the one which I previously presented.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the amendment as modified will be received and printed.

The amendment as modified, being the pending amendment, is as follows: On page 25, and immediately following subparagraph (d), insert a new subparagraph reading as follows:

(e) As used in this act the words "agricultural commodity" shall include potatoes and grapes, but shall not include any other vegetable or fruit, or milk or milk products: *Provided*, That this subparagraph shall not apply to the provisions of section 9.

Mr. THOMAS of Oklahoma. Mr. President, I have on the table three amendments to section 2 of the pending bill. Section 2 relates to the creation of the Federal farm board.

When this bill was reported to the Senate it contained two vitally fundamental provisions; one, the creation of the board and the other the "debenture plan." But of the two provisions I assert that the character of the members of the board to be the most important—in fact, the ability, the understanding, the viewpoint, the energy, and the interest in agriculture of the members of the board make up the most important factor in the measure now pending before us.

A perfect law could and would be ruined by an inefficient or a designedly bad board. An imperfect law could bring untold benefits to the farmers if administered by an able and friendly board.

As to the importance of the character and personnel of the board I will deal a little later.

The work proposed to be done and the results hoped to be accomplished are outlined in the two bills now before us—one the House bill (H. R. 1) and the other the Senate bill (S. 1)—now before us and open for amendment.

I am now seeking to call attention primarily to the character of the personnel of the membership of the board; and at this point I will place in the RECORD a statement or description of the kind of a board proposed to be created by the bill (H. R. 1) recently passed by the other House of this Congress.

The chairman of the House Committee on Agriculture [Mr. HAUGEN], in reporting the farm bill, on page 8, said:

Section 2 creates a Federal farm board consisting of six appointed members to be appointed by the President and confirmed by the Senate, and the Secretary of Agriculture ex officio. Of the six members the President shall designate one to be chairman, who shall hold office at his pleasure and whose salary shall be fixed by the President. The five others are to be appointed for 2, 4, and 6 years, with their successors serving 6 years, and to receive a salary of \$12,000 a year each. No restrictions whatever are placed upon the presidential power of appointment, and it is believed that it will be possible to secure a board of exceptional talents for this most difficult, powerful, and important work.

The set-up of the board as proposed in the Senate bill (S. 1) is materially different from that outlined by the chairman of the House committee.

Under the provisions of the Senate bill there would be appointed 12 members, 1 from each Federal land-bank district, and the Secretary of Agriculture is made a member ex officio.

In each bill the President is given the power to name the chairman and to fix his salary.

Each bill provides that in the absence of the chairman the President must be appealed to to designate some member to act temporarily in the place of the chairman.

The boards proposed in the two bills before us differ from the board proposed in the bill passed by the Seventieth Congress, which, because of a presidential veto, failed to become a law.

That board was to contain 12 members, with an added member in the person of the Secretary of Agriculture.

Under the provisions of the former bill the salaries were fixed at \$10,000, while in each of the pending bills the salaries are fixed at \$12,000, save that of the chairman, which can be fixed at any figure within the discretion of the President.

I have three objections to the Senate section. I object to the provision which provides that in the event the chairman for any reason is unable to call and preside at a meeting of the board, a messenger must be sent to the President advising him of the situation and asking him if they may hold a meeting and if so to designate some one to call it and to preside. My first amendment is as follows: On page 3, beginning in line 14, after the word "board," strike out the balance of said line, and all of

line 15 and all of line 16 down to and including the word "chairman," and insert in lieu thereof the following: "The board shall select a vice chairman, who shall act as chairman in case of the absence or disability of the chairman."

Following action on this proposal, I will offer a second amendment, as follows:

On page 3, line 19, after the word "States," strike out the word "who," add a comma, and insert the following: "shall understand the farm problem, shall have the viewpoint of the farmer, shall have the interests of agriculture uppermost, and."

Then I shall offer a third amendment. On page 4, at the end of line 5, add a period and strike out all of line 6 and the word "President," in line 7. The force of this amendment is to deny the President the power to fix the salary of the chairman, whereupon the chairman shall receive the same salary as the other members of the board.

In support of this amendment I call attention to the salaries of the other members of major Federal boards.

FEDERAL BOARDS AND COMMISSIONS—NUMBER OF MEMBERS AND SALARIES

Interstate Commerce Commission, 11 members at \$12,000 per annum.
United States Board of Mediation, 5 members at \$12,000 per annum.
United States Shipping Board, 7 members at \$12,000 per annum.
Federal Reserve Board, 6 members at \$12,000 per annum.
Federal Trade Commission, 5 members at \$12,000 per annum.
United States Tariff Commission, 6 members at \$9,000 per annum.
United States Board of Tax Appeals, 16 members at \$10,000 per annum.
Federal Radio Commission, 5 members at \$10,000 per annum.

The chairman of no existing Federal board receives more salary than the other members of such board. In no case has the power been delegated to the President to fix the salary of the chairman.

The provisions of section 2, if unchanged, will in my judgment result as follows:

The Congress will delegate very great powers, theoretically, to a Federal farm board, but actually such powers will be delegated to the President of the United States.

The chairman, specially selected and commissioned, with a probable substantial increase in salary, such favors held through the preferment of the President, will be little more than the secretary or chief clerk of the appointing power. To reinforce my opinion herein expressed, I call attention to the provision of the House bill—H. R. 1—to the effect that the chairman may serve only at the pleasure of the President.

The House bill contains the provision that the chairman of the board shall serve only at the pleasure of the President. He can be appointed at will and discharged at will. I offer that as a substantiating reason for the statement I have just made.

At the proper time I shall call from the table these three amendments and in order will ask that they be considered.

DEBENTURE PLAN

Mr. President, the Senate has just passed judgment on what is known as the "export debenture plan" and, by a vote of 44 for to 47 against, has ordered the "plan" retained as section 10 of the pending bill.

Inasmuch as notice has been served that we may have the substance of this section to deal with at a later date, I will incorporate at this point a brief statement of the essential principles of this plan:

The essential principle of the export-debenture plan is the paying of a bounty on farm products in the form of negotiable instruments called "debentures" which can be used by importers in paying import duties. The price of domestic farm products would be raised to the extent of the bounty; likewise, prices to consumers. The revenues of the Government would be reduced by the amount of the export debentures issued. The maximum height of the export bounty is the import duty; otherwise, a return flow of the product would set in.

Before I proceed further let me say that when the roll is called on the final passage of the pending bill I will vote "aye." My vote, however, will be inspired more by desire and hope than by faith and confidence; yet the vote just had increases my hope and at the same time checks to some degree the fading of my faith and the waning of my confidence in the sincerity of some of those now in control of this legislation, which is so vital and means so much to approximately one-third of the population of America.

I am not yet assured that the other branch of this Congress will accept the proposal, and if the light should come to a majority of the Members of that body I entertain a most serious doubt about the approval of the measure by the President of the United States.

COMMENDS COMMITTEE CHAIRMAN

At this point I will pause to pay a tribute to the chairman of our committee. Full well do I realize the nature of the

post he holds. Whatever his personal convictions upon the issue just passed upon, as a general in the army he, of all others, must work harmoniously under the grand command in carrying out the program decided upon. And I, here and now, admit that neither the equalization fee nor the debenture plan nor any other plan which would materially help the farmer at an early date has been made a part of any program for the relief of the farming masses of our country.

Nothing but praise and commendation can be associated with the distinguished chairman of our committee. His task has been that of a superman, and twice has he risen to a superman's estate, and even now we, his willing subjects, have not permitted him to descend from that high estate.

DUTY OF CONGRESS TO ENACT LEGISLATION

Mr. President, the duty and the responsibility of proposing and enacting legislation for the welfare of the people rests exclusively upon the individual Member of the Congress. This duty and responsibility can not be avoided. It is no answer to a criticism of neglect and inactivity to say that somebody would not let us do the thing we knew or even thought should have been done.

The Constitution provides that the powers of the Government shall be exercised through three branches—the legislative, the executive, and the judicial. The legislative powers come first under Article I. The powers of the executive come next, under Article II, and the powers of the judiciary come last, under Article III.

LEGISLATIVE BRANCH COMES FIRST

The legislative power comes first, and the makers of the Constitution devoted a very large percentage of their labors to the task of defining such powers. The Constitution, with all amendments, embraces approximately 6,000 words, of which 65 per cent are devoted to defining the powers of the Congress, 12 per cent are devoted to the executive department, 5 per cent are devoted to the judiciary, and the balance of 18 per cent are devoted to the general provisions of the instrument.

The makers of the Constitution did not contemplate that the Congress should either delegate or abdicate any of its powers to any created or to be created board, bureau, or department.

Section 3 of Article II provides that the President—

shall from time to time give the Congress information of the state of the Union and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses * * *

Mr. President, we are now in special session for the sole reason that this is an extraordinary occasion. What has brought about this extraordinary occasion? The President answered this question in his Palo Alto speech when he said:

The most urgent economic problem in our Nation to-day is in agriculture.

Following his induction into office and exercising the power conferred on him by the Constitution, the President convened the Congress in special session, and on the second day of this session by message informed us "of the state of the Nation." And then, assuming his further responsibility and exercising his clear and well-defined power, he recommended what no doubt appeared to him to be a solution of the economic problem confronting agriculture.

As a solution of the farm problem the President suggested and recommended the following:

First. A readjustment of the tariff;

Second. A lowering of freight rates by the building of a great system of inland waterways;

Third. Reorganization of the marketing system upon sounder and more economical lines; and

Fourth. The creation of a Federal farm board of representative farmers.

Mr. President, the Chief Executive has assumed and discharged every responsibility resting upon him to date. Let me emphasize the words "to date."

If the Congress enacts this bill and the bill is approved by the President and the agricultural problem is solved and relief is brought to agriculture, the credit will go to the Congress and to the administration in power.

On the other hand, if the Congress passes this bill and the measure is approved and the farm problem is not thereby solved and the present distress and threatened if not the actual bankruptcy of agriculture is not thereby diverted, then the failure will be chargeable, and rightly so, to the inability or the inefficiency or to the neglect of the legislative branch of our Government.

The President is not charged with the duty and responsibility of enacting legislation. The only duty he has to perform in connection with legislation is: First, to advise the Congress on the

state of the Nation; second, to recommend such measures as he shall judge necessary; and third, to either sign such bills as may be enacted or to return same with his objections.

To-day no additional constitutional responsibility for the solution of the farm problem rests upon the President of the United States. That responsibility rests solely upon the Members of this Senate and the Members of this Congress. From this conclusion we can not escape and I congratulate the majority of the Members of this Senate upon their acceptance of such responsibility and upon their choosing to vote their judgment rather than to register the wish or desire of some influence or power not so charged with a solemn duty to perform.

Mr. President, if this Congress passes a bill that it considers to be a solution of the farm problem, and if, for any reason, such bill does not become the law, then the Congress has discharged its duty in full and the responsibility for inaction or failure will rest otherwise than upon the Members of the Senate and House of Representatives.

While the friends of the farmer have been able to keep the debenture plan in the bill to date, I am not so optimistic as to concede that the "plan" will be accepted by the other House, and, if accepted by the other House and sent to the President, that the proposal will ever become the law.

REASON FOR OPPOSITION

Before passing from this phase of the bill, I am constrained to suggest a reason for the opposition to the adoption of the "debenture plan." My reason is that it would work. It would operate to raise the price of the farmers' produce.

The President, in his letter to our chairman, admitted that it would stimulate production through increased prices for farm commodities. The reason just stated is further supported by a similar admission made by the Secretary of the Treasury. In his letter, accompanying that of the President, he says:

There is no doubt, I think, but that the effect of this program would be to depress world prices and to increase domestic prices, and to give to the American producer a price higher than he would otherwise obtain.

Then, on Saturday last, the distinguished Senator from Kansas [Mr. CAPPER] made a startling statement. He said:

If you put this subsidy into effect we will increase our production of wheat in Kansas, through our use of big power on our level fields, in a way that will give the Treasury plenty of work to do.

HOW DEBENTURE PLAN WOULD AFFECT KANSAS

What does this statement mean? It means that if the debenture plan is retained in this bill the wheat farmers in Kansas will find the raising of wheat so profitable that they will prepare their level fields with tractors and gang plows, will sow the seed with power drills, will harvest the grain with combines, will spend their leisure in "big power" cars, and will "give the Treasury plenty of work to do" in handling their income-tax returns and payments.

What will such prosperity mean to Kansas? It will mean increased demand for "big power" machinery, tractors, power drills, and combines, along with all kinds of farm machinery and equipment. It will mean increased demand for motor cars, increased business for the railways, increased business for the express, telegraph, and telephone companies, increased business for the public utilities, and, because of such increased prosperity and the increased purchasing power of the farmer, it will mean an increased demand for everything which the merchants and tradesmen offer for sale in the many fine cities and towns of Kansas.

Will such activity ruin Kansas? If the debenture plan can be retained in this bill and if it will produce the results admitted by the able Senator from that great State, then we will have the answer to that famous question propounded a few years ago: "What is the matter with Kansas?" and the answer will be, "Nothing is the matter with Kansas."

But if the debenture plan is yet to go out, it will be largely because of the influence of the two able Senators from that wonderful State, and the question will be with us still: "What is the matter with Kansas?"

In this connection, Mr. President, I now have in my possession two letters from which I desire to quote. Each letter relates to the bill now before us. One is from a wealthy attorney of Oklahoma. It gives an answer to the question "What is the matter with the farmer?"

The answer is:

I think the relief of the farmers is to work and quit hiking round with their jitneys and going to picture shows and rodeos and stay on the farm to raise something. My experience of 40 years is that the man on the farm, I don't care who he is, if he hasn't some sickness or unavoidable accident, if he will just work and save will get ahead.

The other letter is from a real dirt farmer, a resident of Kansas. It answers the letter from the Oklahoma lawyer. It says:

I am working 320 acres of land, rented from my father-in-law, who never had sons of his own. I am not exactly a failure as a farmer either, if you will take the trouble to look me up and find out a few of the little things I have helped to accomplish hereabouts. My wheat makes as much as 40 bushels to the acre, my chickens lay 210 eggs and more a year, my cows run to 280 and 300 or more pounds of butterfat in a year, and we have side issues here like bees and garden and sweet clover rotation in our fields, and just to-day the county agent brought out a representative of Mr. Mercer's office in Topeka to discuss some vital moves in a county-wide tuberculosis-eradication campaign to be put on this fall. But try as hard as I may, I can't get ahead in the world as fast as I ought; my time books show over 3,300 and 3,500 hours of labor I put in here in the past two years, so I haven't been running around away from my business; I hold membership in four lodges in town, and haven't been to any of them for over a year, only one of them then, and one I haven't been to for eight years. It is 17 years since I saw a ball game and 11 since I saw a picture show, all because I have been tending to my business trying to get ahead. Just a week or so ago, the missus got to figuring on a bathroom for the house; she is raising her family now and needs its convenience. I said I'd buy the equipment if the landlord would build in the room. The carpenter's estimate was \$300, and that blocks the whole deal. Why? Because the products of this farm don't bring a high enough price to give the money necessary to do these things with. No; not from a half section of land, and the crops and cows and chickens and stuff and all that we are able to get around and over it.

Mr. President, those who would deny the man who tills the soil the right to attend his lodge, the time to witness an occasional ball game, a movie, or a circus, and who would deny his family the convenience of a bathroom have already condemned the farmer to eternal peonage, peasantry, and economic slavery. Shall this be the final verdict of the first special session of this the Seventy-first Congress? I am thrice glad to-day that such a verdict has not been entered by the Senate of the United States.

MY TRIP TO OKLAHOMA

After this special session had been called, and after the Senate Committee on Agriculture and Forestry had about concluded its hearings, in order to learn first-hand of conditions in my State I had arranged and advertised a series of meetings to which the public and especially the farmers were invited and urged to attend.

Oklahoma is located in the Central West and on the line between the North and South, and produces practically all the farm crops grown both North and South in the United States. We have our wheat lands in the north and cotton plantations in the south and diversified crops, such as corn, oats, alfalfa, broomcorn, potatoes, melons, livestock, and dairying, covering the entire State.

I made these meetings by airplane. I visited sections so as to come into contact with every group and class. For 10 days I listened to recitals, and the story of the Kansas farmer is the story I heard in every section of my State. From the air, my State, with its mountains, plains, and timberlands, with its uplands and its valleys, with its wheat, corn, alfalfa, and cotton areas, and with its mines, factories, and oil fields, presented a picture no artist could paint. Yet Oklahoma is no exception to the rule.

Our farmers are not prosperous. Out of the hundreds, I met two who stated that they had made some money during the past few years. One was a cotton farmer, owning first-class bottom land, with a large family, all being pressed into service as cotton planters, cotton choppers, and cotton pickers. The other prosperous farmer was a cattleman, who admitted that his prosperity was of very recent origin, and due to the present satisfactory price of cattle.

ARGENTINA EMBARGO

By way of digression, let me say that the present high price of cattle is due almost wholly to the embargo upon the importation of livestock, meat products, and hides from Argentina, such embargo having been imposed against these imports from Argentina because of the existence in that country of either the foot and mouth disease or rinderpest. As soon as these diseases are eradicated from the livestock of Argentina the present embargo will be raised, and at that time the cattle industry of America will be forced into competition again with the meat production of our southern competitor. When that time arrives, unless a tariff is placed upon the importation of such products, the cattlemen of the country will find that their present prosperity has been destroyed.

I had not proceeded far upon my journey until I was convinced that the little or average farmer was not receiving

returns commensurate with either his investment or the hours of labor performed by himself and members of his family.

FAMOUS 101 RANCH

I then visited the famous 101 Ranch, a consolidated farm of some 101,000 acres, located in one of the finest sections of the United States. This great property has been developed within the lifetime of two generations. It is to-day the largest modern farm in the world. The ranch has ample finances. It has its own oil field and its own refinery, its own dairy and its own creamery, its own packing plant and its own tannery. It has hundreds of acres of orchards and operates its own cider and vinegar plant. It has its own general store, power plant, and water system.

The land is diversified—upland and bottom. It produces successfully wheat, corn, oats, alfalfa, cotton, potatoes, sweet potatoes, and fruits.

The institution was started and developed originally as a cattle ranch, but a few years ago the collapse of the cattle business almost wrecked the institution. The ranch lands were then sown to wheat and oats and planted to corn and cotton. The management soon found that the expense of farm labor and farm machinery made it impossible to produce wheat at a profit; hence that commodity, as a major crop, has been discontinued.

Dairying on a large scale, with a modern creamery on the ranch, was then tried, but neither could be made to pay. The tannery has likewise been closed.

The ranch is now practically out of the cattle business. The grazing lands can not be satisfactorily disposed of, hence they are being leased for such rentals as can be secured. The vast fields of the ranch are to-day being devoted to the raising of corn and alfalfa, and the livestock interest has been centered in the raising of hogs.

The 101 Ranch is no longer a chain of cow camps, is no longer a vast wheat area, but instead has been converted into the largest hog ranch in the world. Hogs by the thousands are being produced, matured, fattened, butchered, and processed in the local packing plant and the finished product is being distributed in the ranch's own refrigerator trucks to cities and towns within the radius of 100 miles.

With consolidated and efficient management, with improved machinery and modern methods, with ample finances, with a diversified soil, and with the profits from oil wells and a circus to offset possible losses, the 101 Ranch is still a going concern.

But, Mr. President, without the provisions of the debenture plan, what benefit or what hope even do the provisions of the pending bill hold out to the farmers of my State or to the farmers of any State?

After the many entertaining, instructive, and able addresses which have been made upon this so-called farm relief bill, perhaps I should tender an apology for occupying additional time in presuming to discuss any phase of the question, and thus postponing action on the various amendments and, likewise, postponing a vote on the final passage of the bill itself; however, the fact that I am a member of the committee which reported the bill, the fact that Oklahoma, the State which has commissioned me to speak and vote in this Chamber, is primarily an agricultural Commonwealth, and the fact that some 30,000,000 of our citizens, owning some 6,500,000 farms, having a consolidated investment of \$75,000,000,000, are now watching every move made and are listening to every word uttered by those chosen to act and speak for them—these facts urge me to use this time in assisting to make the record which the Senate of the United States will leave as its contribution to the solution, or attempted solution, of the most vital issue of the hour.

After 8 years of hearings, 8 years of debates, and 8 years of consideration, this is the bill, in outline and in substance, save the debenture plan, which is to be given to the country under the solemn promise of giving "equality of opportunity to the farmer."

If the debenture plan goes out, I will still vote for the bill, yet I will not be deceived as to its provisions, or, perhaps, I should say, as to its lack of provisions; however, in fairness to its proponents, I will admit that, in the absence of the debenture plan, it is not claimed that the bill will bring about any temporary or immediate relief. It is claimed only that it will be a beginning and that the passage and approval of the measure will commit the Government to the policy of agricultural relief. A start and an announcement of policy are all that are suggested, proposed, and claimed by those sponsoring this legislation.

The House of Representatives has already acted upon this subject matter. The result of the deliberations of the other branch of the Congress is now on the desk of the President of the Senate.

Notice has been given by the chairman of the committee that, when the text of the pending bill (S. 1) has been perfected, the House bill (H. R. 1) will be taken from the table, a motion will be made to strike out all after the enacting clause, and the text of the Senate bill (S. 1) inserted instead, and thereafter, the House bill (H. R. 1), as thus amended, will be returned to the House of Representatives for its further consideration.

This procedure will place in disagreement between the Houses much of the subject matter in the respective bills.

As soon as the result of our deliberations reaches the other body a conference will be requested and granted, and then the work of preparing the final measure will begin.

The bill we pass here now will not become the law, because in conference a new bill will be prepared and submitted; and, when the conference report, embracing the new bill, is brought here for consideration, I will again have no alternative and, whatever it is—whatever its delinquencies, for the want of anything better—I will again vote "aye."

The Congress is committed to the passage of a bill to help the farmer, and any bill now enacted into law will commit the Government to the policy of bringing about aid to agriculture.

What is the history of this ever present and continuing effort to bring about some relief for agriculture? Let me state it briefly:

In the Sixty-eighth Congress the problem was recognized and an effort was made to solve it. Bills were introduced in both the House and Senate, but no agreement was reached and the issue was passed over to the next Congress.

When the Sixty-ninth Congress was convened many bills were introduced. Each Congress considered and passed a measure and, in conference, Senate 4808, known as the McNary-Haugen bill, was perfected, reported, passed, and sent to the President for his consideration.

REASONS FOR PRESIDENTIAL VETOES

President Coolidge, instead of signing the measure, took 29 pages in stating his reasons for vetoing the bill. The objections of the President summarized were as follows:

The bill would increase our tendency toward bureaucracy. It would involve governmental price fixing. It would delegate powers to a farm board and it would stimulate overproduction.

The Congress was not able to pass the bill over the presidential veto and it died with the Sixty-ninth Congress.

In the Seventieth Congress a similar procedure was followed. Bills were again introduced and, for a second time, a McNary-Haugen bill was passed and sent to the President for his approval. Again the President returned the measure with a veto message. In this message, among other things, the President said:

A detailed analysis of all of the objections to the measure would involve a document of truly formidable proportions. However, its major weaknesses and perils may be summarized under six headings:

- I. Its attempted price-fixing fallacy.
- II. The tax characteristics of the equalization fee.
- III. The widespread bureaucracy which it would set up.
- IV. Its encouragement of profiteering and wasteful distribution by middlemen.
- V. Its stimulation of overproduction.
- VI. Its aid to our foreign agricultural competitors.

These topics by no means exhaust the list of fallacies and, indeed, dangerous aspects of the bill, but they afford ample ground for its emphatic rejection * * *

This bill also provides that the equalization fee collected on any agricultural commodity produced in the United States shall in addition be collected on importations of that commodity. This provision would empower the board to do the following:

(1) Regulate foreign commerce, for the equalization fee on imports would be in fact a tariff. This surely would be a delegation of legislative power, since no logical rule is prescribed to govern the board's actions in making this addition to import duties.

(2) Raise the domestic price to the consumer not only to the full amount permitted by the tariff but as far above that amount as the board might deem proper and expedient * * *

The real objective of the plan in this bill is to raise domestic prices * * *

In conclusion, if the measure is enacted, one would be led to wonder how long it would be before producers in other lines would clamor for similar "equalizing" subsidies from the public coffers. The lobbies of Congress would be filled with emissaries from every momentarily distressed industry demanding similar relief of a burdensome surplus at the expense of the Treasury * * *

Three Congresses have recognized the agricultural problem. Two have passed bills proposing a solution, and each bill has met death at the hands of the President.

FARM ISSUE BEFORE NATIONAL CONVENTIONS

But the issue did not die. The increasing prosperity of the groups favored by legislation stood out boldly before the millions of our farmers and the fight to secure legislative equality with such favored and prosperous groups was transferred to the conventions of the two major parties during the summer of 1928.

The Republican National Convention of 1928, held at Kansas City, adopted the following provisions as a part of the Republican platform:

The Republican Party pledges itself to the enactment of legislation creating a Federal farm board clothed with the necessary powers to promote the establishment of a farm marketing system of farmer-owned and controlled stabilization corporations or associations to prevent and control surpluses through orderly distribution.

We favor adequate tariff protection to such of our agricultural products as are affected by foreign competition.

We favor, without putting the Government into business, the establishment of a Federal system of organization for cooperative and orderly marketing of farm products.

The vigorous efforts of this administration toward broadening our exports market will be continued.

The Republican Party pledges itself to the development and enactment of measures which will place the agricultural interests of America on a basis of economic equality with other industries to insure its prosperity and success.

The Democratic National Convention of 1928, held at Houston, Tex., adopted the following provisions as a part of the Democratic platform:

Farm relief must rest on the basis of an economic equality of agriculture with other industries. To give this equality, a remedy must be found which will include, among other things:

(a) Credit aid by loans to cooperatives on at least as favorable a basis as the Government aid to the merchant marine.

(b) Creation of a Federal farm board to assist the farmer and stock raiser in the marketing of their products as the Federal Reserve Board has done for the banker and business man. * * *

(c) Reduction, through proper Government agencies, of the spread between what the farmer and stock raiser get and the ultimate consumer pays with consequent benefits to both.

(d) Consideration of the condition of agriculture in the formulation of Government financial and tax measures. * * *

We pledge the party to an earnest endeavor to solve this problem of the distribution of the cost of dealing with crop surpluses over the marketed units of the crop whose producers are benefited by such assistance. * * *

The solution of this problem will be a prime and immediate concern of a Democratic administration.

PRESIDENT HOOVER'S POSITION

During the recent campaign Mr. Hoover, in his speech of acceptance, said:

The most urgent economic problem in our Nation to-day is agriculture. It must be solved if we are to bring prosperity and contentment to one-third of our people directly and to all of our people indirectly. We have pledged ourselves to find a solution. * * *

The working out of agricultural relief constitutes the most important obligation of the next administration. I stand pledged to these proposals. The object of our policies is to establish for our farmers an income equal to those of other occupations; for the farmer's wife the same comforts in her home as women in other groups; for farm boys and girls the same opportunities in life as other boys and girls.

At a later date, in his St. Louis agricultural speech, Mr. Hoover, in enlarging and amplifying the platform pledges, and in his speech of acceptance relating to the farm program, said:

Its object is to give equality of opportunity to the farmer. I would consider it the greatest honor I could have if it should become my privilege to aid in finally solving this the most difficult of economic problems presented to our people and the one which by inheritance and through long contact have my deepest interest. * * *

In this speech the presidential candidate advised the country of the kind of a farm board we would have. He said:

We propose to create a Federal farm board composed of men of understanding and sympathy for the problems of agriculture; we propose this board should have power to determine the facts, the causes, the remedies which should be applied to each and every one of the multitude of problems which we mass under the general term "the agricultural problem."

While President Coolidge has vetoed two farm bills, largely because of the vast powers proposed to be delegated to the farm board, Mr. Hoover, in his St. Louis speech, outlined the powers he proposed to have delegated to such board. He said:

The program further provides that the board shall have a board authority to act and be authorized to assist in the further development of cooperative marketing; that it shall assist in the development of clearing houses for agricultural products, in the development of adequate warehousing facilities, in the elimination of wastes in distribution, and in the solution of other problems as they arise. * * *

It is proposed that this board should have placed at its disposal such resources as are necessary to make its action effective.

Thus, we give to the Federal farm board every arm with which to deal with the multitude of problems. This is an entirely different method of approach to solution from that of a general formula. It is flexible and adaptable. No such far-reaching and specific proposals have ever been made by a political party on behalf of any industry in our history. * * *

PLAN OF REPUBLICAN PARTY

In the light of recent developments we may well pause for a moment to consider what the major party in its convention platform declaration promised the farmer. In this declaration we find the following:

The Republican Party pledges itself to the enactment of legislation creating a Federal farm board clothed with the necessary powers to promote the establishment of a farm marketing system of farmer owned and controlled stabilization corporations or associations to prevent and control surpluses through orderly distribution.

The Republican Party did not officially promise to enact any legislation that would directly help the farmer. It promised only to create a board and to delegate to such board "the necessary powers" to solve the problem.

After eight years of effort the Republican Party, acting through its delegates, condemned the farm-problem solution proposed by two Congresses under its complete control, and, confessing its inability to find a solution, decided to have the Congress pass a bill creating a farm board and then to look to this board to perform the miracle of aiding the farmer without doing anything to raise the price of the things the farmer produces.

Again let me call attention to the last pledge in the Republican farm plank declaration, as follows:

The Republican Party pledges itself to the development and enactment of measures which will place the agricultural interests of America on a basis of economic equality with other industries to insure its prosperity and success.

The Republican Party pledges that it will develop a measure. Mr. President, what does the term "develop" mean?

Webster's New International Dictionary defines the word as "a gradual advance or growth through a series of progressive changes," and then gives as a synonym the term "evolution."

If the farmers of America must wait for agricultural relief until the Republican Party goes through a series of progressive changes then such relief is as far in the future as those who are opposed to such relief could possibly wish.

INTERPRETATION OF BILLS

Now, Mr. President, with the interpretation just given of the most recent Republican declaration, and the plain pledges of the President, we will examine the pending bills, S. 1, now being considered here, and H. R. 1, now resting upon your desk.

Each bill contains:

First. A declaration of policy—a declaration of congressional intent to "bring about a substantial and permanent improvement in agriculture."

Second. Each bill proposes to create a Federal farm board.

Third. The House bill proposes to delegate to such farm board the "necessary powers" to substantially comply with the party, congressional, and presidential intent.

The Senate bill, however, proposes a plan to give the farmers—that which has already too long been denied—a plan which, admitted by all, will raise the price to the farmer of the things which the farmer produces.

Fourth. During this evolutionary process each bill proposes to authorize the appropriation of the sum of \$500,000,000 with which to assist agriculture to regain its economic health.

The balance of the proposed measures sets forth, in a maze of words, hazy provisions relative to commodity advisory councils, stabilization corporations, clearing-house associations, and administrative provisions. If the debenture plan is not finally agreed to then the Senate and House bills are substantially the same.

Lest some who may chance to read the interpretation of the pending bills may be inclined to challenge my analysis, let me reinforce my position with some testimony from reliable authority.

The gentleman from Iowa [Mr. HAUGEN], chairman of the House Committee on Agriculture, in presenting the committee

report on the House bill (H. R. 1), under a heading of "A Program, Not a Panacea," said:

We do not offer the bill which accompanies this report as in and of itself the sum total of agricultural relief. It is entirely clear that such relief can be accomplished only by a program and not by a single bill.

Then followed an outline of the program which the House committee proposes for the relief of agriculture, and as follows:

First. Tariff revision.

Second. Waterway development:

(a) Great Lakes to the sea.

(b) Inland waterway system.

Third. Amendments to:

(a) Federal farm loan bank.

(b) Federal intermediate credit bank.

Fourth. Licensing of shippers.

Fifth. Improvement of canning practices.

Sixth. Improvement of oleomargarine law.

Seventh. Improvement of warehouse law.

Eighth. Reforestation.

This program of progressive changes differs only slightly from the program submitted by the senior Senator from Kansas on May 4. The distinguished and able Senator from Kansas suggests that the farmers of the country must have patience, and that if they will only wait until the Republican Party develops and evolves: First, a sound land policy; second, inland waterways; third, an extension of foreign trade; fourth, lower freight rates; fifth, an extension of research work; sixth, a reduction of the spread between the producer and the consumer; and seventh, reforestation—then such farmers as may still be alive will have and may enjoy full "equality of opportunity."

As further evidence of the correctness of my interpretation, let me quote further from the RECORD. On April 18, page 136, the chairman of the House committee [Mr. HAUGEN], in giving "a brief analysis of the bill" (H. R. 1), after stating the committee intent, said:

The question is, How is it all to be accomplished? As previously stated, no detailed plan is prescribed. The board is charged with the responsibility of selecting the formula to be used in carrying out the policy declared.

On the same day, in the same address as recorded on page 133, in answer to a question as to the operation of the bill propounded by the gentleman from Alabama [Mr. BANKHEAD], the chairman said:

It is left with the board, as I have stated. We are not setting up here any definite plan. We leave that to the board to determine. We must have confidence in the board.

Later, in answer to a question by the gentleman from New York [Mr. SMOVICH], the chairman said:

But, my friend, we must have confidence in the board. We have in the speeches and in our platforms made our purposes clear.

Mr. President, it now appears that the farmers of America must not only wait until the party in power goes through a series of "progressive changes"; must wait until we can develop inland waterways; must wait until we extend our foreign trade; must wait until we improve our canning practices; must wait until our cut-over land can be reforested; and, while they are thus patiently waiting, they must have faith and confidence.

Yet, with this gloomy promise held out to languishing agriculture, we are admonished that this bill is an exact prototype of the pledges made by the Republican Party at Kansas City.

On April 30, as reported on pages 688 and 689 of the RECORD, the junior Senator from Indiana [Mr. ROBINSON] said:

But, Mr. President, the very principles of farm relief advocated by the Republican candidate for President last year and in the Republican platform are in the bill now before the Senate. * * *

The very principles enunciated time and again in the President's acceptance address, in his speech at West Branch, Iowa, and in his speech at St. Louis are all incorporated in this bill, with the exception of the debenture plan, which he has given reasons for being against.

POWER ALREADY DELEGATED

If the plan outlined by the proponents of this legislation is followed, the Congress will create a farm board and delegate to such board full legislative powers to act in matters pertaining to agriculture. Having in mind that the makers of the Constitution placed the legislative branch of the Government first, and gave two-thirds of its attention to the perfection of this division, indicating that it was their plan and hope that the Congress, made up of the agents of the people, should be the real governing power of the new Republic, let me call attention briefly to what has been already and what is now proposed to be done:

We have delegated our powers relative to transportation to the Interstate Commerce Commission.

We have delegated our powers relative to finance to the Federal Reserve Board.

We have delegated our powers relative to appropriations to the President acting through his Budget Bureau.

We are proposing to delegate our powers relative to revenue to the President acting through the Tariff Commission; and in this bill we are proposing to delegate our powers relative to farm relief to the President acting through the Federal farm board.

Mr. President, in every instance where such a delegation of powers is made the Congress confesses its ignorance, its inability, and its inefficiency to perform the duties clearly assigned by the mandate of the Constitution.

I realize that this is an age of consolidation and an age of mergers. Yet I here and now enter a solemn protest against the further delegation of legislative powers, against the further abdication of the prerogatives of the Congress, and a protest against the consolidation and merger of all the powers and responsibilities of the Government in the President of the United States.

FREIGHT RATES

In considering the many plans and ways in which the farmer may be benefited most of those who prescribe a program include a reduction of freight rates. Some who have not given the matter thorough consideration suggest that the Congress should order rates, applicable to farm products at least, reduced. Answering such suggestion, I call attention to the action of the Congress in passing what is known as the Hoch-Smith resolution, a—

resolution directing the Interstate Commerce Commission to take action relative to adjustments in the rate structure of common carriers subject to the interstate commerce act and the fixing of rates and charges.

This act was passed by the Sixty-eighth Congress and approved January 30, 1925.

Acting under the instruction of the Congress, the Interstate Commerce Commission proceeded to order and hold hearings, and now, after more than four years of time, the hearings have been completed and a preliminary report has been made, a copy of which was, by the senior Senator of New York [Mr. COPELAND], presented to the Senate and made a part of the record only a few days ago.

In the regular course of business a new schedule of rates will be suggested and ordered into effect. Whereupon we expect that the railways affected will seek and secure an injunction against such rates until the whole matter may be presented to and decided by the courts. This will involve court hearings and decisions, motions, rehearings, and appeals until finally the matter is ended by a decision by the Supreme Court of the United States.

Four years have already gone by, and it is safe to estimate that it will be that far into the future before we have any definite action under the congressional resolution passed four years ago. And even after eight or ten years of constant efforts it may be that no reduction in rates will have been secured, which will, even in a small way, aid in the restoration of agriculture.

Under our present system rate adjustments must be initiated by the Interstate Commerce Commission, but in the end such rates as are finally placed in effect are those which are practically approved by the Supreme Court of the United States.

In support of my interpretation of the procedure necessary to secure any reduction of existing freight rates, I here present and ask to have printed at this point some extracts from the leading cases bearing upon this question.

In the case of United States, Interstate Commerce Commission, National Council of Traveling Salesmen's Associations, and others against New York Central Railroad Co. and others, reported in United States Reports 263, page 603, in an appeal from the District Court of the United States for the District of Massachusetts, it was held as follows:

1. Under the act of August 18, 1922, amending section 22 of the interstate commerce act, the rates for interchangeable mileage coupon tickets must be just and reasonable (p. 609).

2. Where the commission's conclusion that a reduced rate fixed by it for such tickets was just and reasonable was contradicted by its findings of fact and was obviously based on a misconception of the amendment as requiring a reduction, held, that the conclusion was one of law and not binding on the court.

In reviewing the questions involved in what is known as the Minnesota Rate cases (vol. 230 U. S. 354) the court, in passing

upon the question as to whether or not such rates were confiscatory, held that—

The rate-making power is a legislative power and necessarily implies a range of legislative discretion.

This court does not sit as a board of review to substitute its judgment for that of the legislature or of the commission lawfully constituted by it as to matters within the province of either.

The question involved is whether, in prescribing a general schedule of rates involving the profitability of the intrastate operations of the carrier, taken as a whole, the State has superseded the constitutional limit by making the rates confiscatory.

While the property of railroad corporations has been devoted to a public use, the State has not seen fit to undertake the service itself and the private property embarked in it is not placed at the mercy of legislative caprice but rests secure under the constitutional protection which extends not merely to the title, but to the right to receive just compensation for the services given to the public.

For fixing rates the basis of calculation of value is the fair value of the property of the carrier used for the convenience of the public. (*Smyth v. Ames*, 169 U. S. 466.)

There is no formula for the ascertainment of the fair value of property used for convenience of the public, but there must be a reasonable judgment having its basis in a proper consideration of all relevant facts.

Where a carrier does both interstate and intrastate business, to determine whether a scheme of maximum intrastate rates affords a fair return the value of the property employed in intrastate business and the rates prescribed must be considered separately, and profits and losses on interstate business can not be offset.

Assets and property of a carrier not used in the transportation business can not be included in the valuation as a basis for rate making.

Property of a railroad company can not be valued for a basis of rate making at a price above other similar property solely by reason of the fact that it is used as a railroad, and increases in value over cost can not be allowed beyond the normal increase of other similar property.

In valuing the plant of a carrier for purpose of fixing rates there should be proper deductions for depreciation.

Where the constitutional validity of State action is involved general estimates of division between interstate and intrastate business can not be accepted as adequate proof to sustain a charge of confiscation.

In *Smyth v. Ames*, *Smyth v. Smith*, *Smyth v. Higginson* (169 U. S. 446) in appeals from the Circuit Court of the United States for the District of Nebraska, the Supreme Court of the United States held that—

It is settled that—

(1) A railroad corporation is a person within the meaning of the fourteenth amendment declaring that no State shall deprive any person of property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

(2) A State enactment, or regulations made under the authority of a State enactment, establishing rates for the transportation of persons or property by railroad that will not admit of the carrier earning such compensation as under all the circumstances is just to it and to the public, would deprive such carrier of its property without due process of law, and deny to it the equal protection of the laws, and would therefore be repugnant to the fourteenth amendment to the Constitution of the United States.

(3) While rates for the transportation of persons and property within the limits of a State are primarily for its determination, the question whether they are so unreasonably low as to deprive the carrier of its property without such compensation as the Constitution secures, and, therefore, without due process of law, can not be so conclusively determined by the legislature of the State or by regulations adopted under its authority, that the matter may not become the subject of judicial inquiry.

It is interesting to discover, however, that no Member of the Senate has, so far in this debate, suggested that, as a practical matter, freight rates can be reduced.

The courts have uniformly held that a railway company is a person within the meaning of the law, and that no State shall deprive any railway/person of property without due process of law.

Freight and passenger rates, made and ordered into effect by any governmental regulatory body, which are so low as to deprive the railway company of a fair, just, and reasonable return, have been, without exception, held to be confiscatory and, therefore, repugnant to the fourteenth amendment to the Constitution of the United States.

The program of the President, as well as of those who have discussed the matter, is to bring about a reduction of freight rates for the construction and development of a system of inland waterways over which nonperishable products could be transported at less costs than is now possible over our railway systems. Even this plan is of doubtful value for the purposes

mentioned. If such a system were constructed and a certain class of freight were diverted to such transporting channels, it is self-evident that the existing railway lines would be deprived of the revenue from the tonnage thus diverted, and, thereupon, we might expect an application to be made and granted for an increase in rates on the perishable commodities to compensate for the loss of revenues on the commodities, goods, and wares transported on the newly developed and operating waterways.

Mr. President, reduced freight rates over inland waterways will come as a substantial aid to the farmer, along with reforestation, progressive changes in the Republican Party, and the millenium.

Mr. President, in conclusion let me say that while I have some amendments to suggest to the pending measure, irrespective of whether or not any of such amendments are adopted, I will vote for the passage of the bill. I will vote for it for the reason that its passage will commit the Government to the policy of granting relief to agriculture and having committed ourselves to such a policy I have an abiding faith in the fairness of the great majority of our citizenship, that they will see to it that such relief, in a substantial way, is speedily provided.

RECESS

Mr. WATSON. I move that the Senate take a recess until to-morrow at 12 o'clock noon.

The motion was agreed to; and the Senate (at 4 o'clock and 45 minutes p. m.) took a recess until to-morrow, Friday, May 10, 1929, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

THURSDAY, May 9, 1929

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, at Thy mercy seat we would humbly bow, beseeching Thee to forgive our sins and let Thy love acquaint us that Thou dost pardon as we forgive. As our country has set its seal upon this Congress and clothed it with the mantle of authority, Holy Spirit of God, give wise guidance to our Speaker and all Members and impress them that the deed is the man. In all situations may we hold on to our honor and keep our conscience clear. The Lord preserve our homes, where pour our thoughts and joys, for there are no such bonds on earth so tender and sublime. Strengthen our faith in humanity. As it takes two to be glad, lead us to seek always wholesome fellowship. When time comes creeping along and it is often so hard to be brave and happy, be Thou our great Companion. Through Jesus Christ our Lord. Amen.

The Journal of the proceedings of Tuesday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Craven, its principal clerk, announced that the Senate had passed the following resolution:

Senate Resolution 56

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. JOHN J. CASEY, late a Representative from the State of Pennsylvania.

Resolved, That a committee of six Senators be appointed by the Vice President to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect to the memory of the deceased the Senate do now take a recess until 11 o'clock a. m. to-morrow.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S. J. Res. 34. Joint resolution authorizing the Smithsonian Institution to convey suitable acknowledgment to John Gellatly for his offer to the Nation of his art collection and to include in its estimates of appropriations such sums as may be needful for the preservation and maintenance of the collection.

The message also announced that the Senate insists upon its amendment to the joint resolution (H. J. Res. 59) entitled "Joint resolution to extend the provisions of Public Resolution No. 92, Seventieth Congress, approved February 25, 1929," disagreed to by the House; agrees to the conference asked by the

House on the disagreeing votes of the two Houses thereon, and appoints Mr. McNARY, Mr. CAPPER, and Mr. RANDELL to be the conferees on the part of the Senate.

THE TARIFF ON SUGAR

Mr. FREAR. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. FREAR. Mr. Speaker, the report of the Ways and Means Committee giving a 3-cent per pound sugar tariff or 60 per cent ad valorem, present rates, is now before the House. The existing rate of \$2.20 per hundredweight has been set aside on the report of the Timberlake subcommittee and increased 40 per cent on the advice of a man named Bates, against the express finding of the Tariff Commission, without any supporting tariff testimony to warrant this astounding sugar increase.

Representative TIMBERLAKE, from the second district of Colorado, is a colleague and personal friend of mine. He represents his constituents well. He is chairman of the sugar subcommittee that brought in this report that without any logical basis for such course increases the sugar duty from \$2.20 to \$3 per hundredweight or, as stated, a 40 per cent boost in sugar rates with a resulting 60 per cent tariff on 5-cent sugar. That report was accepted by a divided committee vote. American consumers will pay this extortion if it becomes law.

When through the sugar chairmanship he now holds, Mr. TIMBERLAKE's constituents seek by law to extort unconscionable profits from the people of my State and sugar consumers of every other State, under conditions that challenge the condemnation of the country, I can not remain silent.

Chairman TIMBERLAKE of the sugar subcommittee frankly states he has 16 large beet-sugar mills in his second Colorado district. They belong to the Great Western Sugar Co. That company manufactures 500,000 tons annually or one-half of all the beet sugar produced in the United States. It is a corporation of large wealth that has collected enormous profits during and since the war down to 1929. In February this year the Great Western Sugar Co. reported profits on its common stock according to my information of 45 per cent. Nearly one-half its par stock is measured by its 1928 profits.

The Great Western Sugar Co. through its Representative in Congress, now chairman of the sugar subcommittee, with the aid of a chemist, not connected with the Tariff Commission, recommended and has put through the committee a further 40 per cent increase in the sugar schedule that sold 22,400 shares and boosted its sugar stock on the market on May 7. That report, by a divided vote, is now before the House for consideration.

UNCONSCIONABLE SUGAR PROFITS UNDER PRESENT TARIFF RATES

I am prepared to show that in securing its unconscionable profits from American consumers, as noted, the Great Western Sugar Co. that produces one-half of all our beet sugar does so by employing an army of children, many of them below 10 years of age and some of them as young as 6 years, who work in the fields from 10 to 14 hours a day and sleep with their families in single rooms to the number of 8, 10, and even 12 persons in a room, in tumble-down shacks or hovels frequently worse than leaky rough boarded woodsheds, without the commonest conveniences and no comforts.

By unimpeachable evidence I propose to show the means by which the Great Western Sugar Co. made its 45 per cent profits last year, and through its new 40 per cent boost in sugar rates to 3 cents, with consequent raise in sugar price, expects to increase its present great profits to possibly 80 per cent in 1929, all at the expense of American sugar consumers.

Living and labor conditions, worse than anywhere else in the world outside of beet fields, I desire to disclose is the basis of vast profits received by this great sugar company.

Keep in mind that no beet-sugar grower is sharing in any of the mill stockholder's prosperity nor will they ever do so until this sugar business is conducted like other lines where the interest of the employer and employee are mutual. To-day all the cream goes to the mills and skim milk with little of it to the grower.

Small ill-managed mills will fail, but not due to any tariff rates. The remedy is not by higher tariffs, as I have pointed out before, but by a just bounty as in England.

The recommended 3-cent rate should be reduced to one-half of 3 cents, or \$1.50 per hundredweight, with the 20 per cent Cuban preferential allowance which would make the rate on imports of the 3,000,000 sugar tons from Cuba, which we must have, \$1.20 per hundredweight, or practically the figures found to be right by a majority of the Tariff Commission in its recent findings and report to the President.

It should be remembered that the increased sugar tariff is not to protect American industries by shutting out imports but solely to raise the price of sugar to the consumer so that the earnings of our sugar mills will be made larger through the increased price. By so doing we pyramid enormous profits from the Philippines and Porto Rico to Colorado and Utah.

One more preliminary statement is offered before proceeding to the subject in hand. Union labor, according to a bulletin before me, has prescribed \$1.25 per hour, 8 hours a day and 44 hours a week for blacksmiths and drop forgers. Practically the same for automobile, aircraft, and vehicle workers. The pay of locomotive engineers, firemen, conductors, and other branches of labor is double that of pre-war days, and every unselfish citizen is glad that labor is getting its fair share of present earnings of its employer.

But I am going to show that child labor and weak women, living in wretched insanitary surroundings, are now engaged at starvation wages in rolling up enormous profits of 45 per cent for the Great Western Sugar Co. that makes one-half of our domestic sugar, and this company is pounding on the doors of Congress for higher duties and still higher, enormous profits. Those profits must come from labor and agriculture as well as all other consumers.

FRIGHTFUL LABOR CONDITIONS IN THE BEET FIELDS

It needs a blast of righteous indignation from America's labor organizations to help wipe out this public scandal in labor conditions and to give direct support to millions of sugar consumers who are about to be robbed by this great sugar company that now demands higher prices and greater profits.

On April 20 I made specific charges in my speech of the employment of from 75 per cent to 90 per cent of Mexican labor in the sugar-beet fields and also of disgraceful child-labor conditions in Michigan and Colorado. I also gave some data regarding the employment of Indian children in the beet fields of Colorado.

Replying to this speech, which was apparently fortified by astounding facts from governmental sources, a telegram was read from the Governor of Michigan denying that conditions in Michigan had been properly represented. In order to ascertain the truth, and also that Congress should know the facts and real conditions of labor in the sugar-beet fields of the country, I introduced the following resolution:

House Joint Resolution 62

Joint resolution authorizing the appointment of a committee to investigate domestic sugar industries

Whereas an extensive survey of the domestic beet-sugar industry by the Institute of Economics and a like survey by the Children's Bureau of the Department of Labor alleges that of 500 families then studied one-fourth of the workers in the sugar-beet fields of Michigan were less than 10 years of age and only one-fifth of the workers had reached the age of 14 years; that 90 per cent of the mothers having children under 6 years of age worked in the fields and half the children under that age were usually taken by their parents to the fields; and

Whereas a survey of Indian child labor in sugar-beet fields made by the Institute of Government Research reports that during the summer of 1927 Indian children were employed in the beet fields, sometimes under 13 years of age, with living quarters especially bad, shacks in which they live seriously overcrowded, poorly ventilated, and practically devoid of minimum conveniences, of dirt floors, water supply in Colorado hauled and stored in cisterns not always clean, Indian boys working from 4 to 6 a. m. without food and, excepting at meal times, working until 6 p. m., together with almost unbelievable insanitary surroundings; that these Indian children were taken from school and were sent on a truck 700 miles to distant beet fields, practically all of them returning underweight and many diseased; and

Whereas in 1927 the Bureau of Labor is reported to have found that 75 to 90 per cent of labor in the sugar-beet fields was Mexican, and 3,048 of the 6,720 workers in the Michigan beet-sugar fields were shipped up from Texas by one company for temporary work; and

Whereas these statements from apparently reliable sources are denied by eminent State officials; and

Whereas such charges, if untrue, should be retracted by responsible officials; but, if true, are a disgrace to American standards of labor and living conditions and to every impulse of humanitarianism; and

Whereas the Great Western Sugar Co. of Colorado, which makes 58 per cent of all beet sugar in this country, in its financial statement printed in the Wall Street Journal for April 22, 1929, discloses 171 per cent increased earnings over the previous year; and

Whereas constant propaganda urges that the present excessive tariff rate of 2.2 cents per pound on sugar be further increased to 3 cents per pound, or a 60 per cent tariff on present sugar values; and

Whereas during the past six years domestic beet-sugar production has remained practically stationary and the Louisiana domestic cane pro-

duction within the same period has decreased from 263,000 tons to 145,000 tons; and

Whereas the total domestic sugar production after many years of high protection has furnished only about 16 per cent of the 12,000,000,000 pounds annually consumed in this country; and

Whereas in 1928, 4,000,000,000 pounds of sugar were shipped in free of duty from Hawaii, Porto Rico, and the Philippines, which islands have doubled their free-sugar shipments during the past six years and now produce double the domestic output; and

Whereas a 3-cent duty or 60 per cent ad valorem is urged by domestic sugar propaganda with which to raise the market price from 5 cents to 7 cents to the consumer, with enormous profits thereby granted to island free sugar and domestic production; and

Whereas such increased price of 7 cents will place a direct added burden of \$240,000,000 annually upon the consumers of this country and a new added burden of \$60,000,000 on the families of 6,000,000 farmers whose debts we are called here to relieve, not increase; and

Whereas, due to rapidly growing free imports from our island possessions and destructive free competition with tropical climate, sugar-cane reproduction crops and cheap foreign labor, it is alleged the American sugar industry will soon be at an end; and

Whereas it is further alleged that no tariff, however high, can meet the situation, but because of rapidly increasing free imports the only alternative for such industry must be a direct bounty system like that built up in European countries, to be maintained by a small sugar duty: Therefore be it

Resolved, etc., That a joint committee of 10 Members of Congress is hereby authorized, 5 to be appointed by the Vice President of the Senate and 5 by the Speaker of the House. Such committee is hereby authorized and directed to make a general survey of the financial and industrial situation of domestic sugar, with special instruction to investigate into labor conditions and contracts made with beet-sugar growers; to report the effect of rapidly increasing free imports of cane sugar upon the future of the domestic sugar industry and what method can be used for the protection of such industry.

Said committee is authorized to send for persons and papers, to administer oaths, to employ such clerical assistance as is necessary, to sit during any recess of Congress and at such places as may be deemed advisable. Any subcommittee duly authorized thereto shall have the powers conferred upon the committee by this joint resolution.

WILL THE GOVERNOR FAVOR MY RESOLUTION?

In order that the original facts then set forth may be supported by further data that challenges the serious attention of every Member of Congress, I quote herewith further facts regarding child labor in the beet fields that is based upon the highest Federal and State governmental authority, and I ask that an investigation be had covering the original facts set forth in the resolution, and in addition thereto further data that is offered herewith.

The United States Department of Labor has published an authoritative pamphlet, No. 115, entitled "Child Labor and the Work of Mothers in the Beet Fields of Colorado and Michigan." I have briefly recited in my speech of April 20 some conditions found in the beet fields of Michigan. The investigation by Government agents in Colorado as well as Michigan is briefly recited in the following pages:

The beet-sugar industry has been developed on a larger scale in Colorado than in any other State in the Union, and for a number of years Colorado has led all States in the area harvested and the tons of sugar produced, though both Michigan and Utah have many sugar factories in operation. * * *

The present study of child labor and the work of mothers in the Colorado beet fields was made in the beet-raising area north of Denver, in Weld and Larimer Counties. In no other two counties in Colorado are beets so extensively grown. * * * (p. 11).

All the sugar factories in these two counties, five in number, were owned by one sugar company—the Great Western Sugar Co.—that produces 50 per cent of all our domestic beet sugar, and these counties are in the second Colorado congressional district, of which Mr. TIMBERLAKE, chairman of the sugar subcommittee, is the Representative. It should be kept in mind that in his district are located 16 mills of the greatest sugar company in the country, that made profits around 45 per cent on its common stock last year, all paid by American consumers. The proposed duty of 3 cents per pound favored by his committee ought to give profits to his mill constituents of 50 per cent and more annually based on existing profits.

EXTRACTS THAT TELL THE STORY

Quoting from the report:

They reported to the Children's Bureau that 4,234, or 44 per cent, of the hand workers who they stated were required were brought in from outside districts, and that the remaining laborers were resident.

The Colorado investigation covered—

Five hundred and forty-two families in the two counties—

In Chairman TIMBERLAKE'S district—

of which over three-fourths were contract laborers. Comparatively few were families owning or renting farms and cultivating their own beets, and only 13 per cent were tenant farmers. * * * (p. 13).

Less than 15 per cent of the fathers and mothers in the families visited had been born in America, and over two-fifths of these were of Mexican stock. * * * Russian-Germans formed the largest group of foreign-born parents. * * * (p. 14).

In the families visited, 1,073 children between 6 and 16 years had worked in the beet fields during the season of 1920. All except 37 of them had worked for their own parents and without remuneration. The child labor law of Colorado, like that of most States, exempts agricultural work from its minimum-age provision, and children may be put to work in the fields at any age. Four children even younger than 6 years were reported by their parents as having worked a part of each day for from one to eight weeks. Among the working children between 6 and 16 years of age covered by the study, well over one-fourth were less than 10 years of age and more than one-half were from 10 to 13, inclusive. Only 191 working children had reached their fourteenth birthday. * * * (p. 18).

More than three-fifths of the 8-year-old children in the families in which at least one older child had already gone to work were beet-field workers. From the age of 10 on practically all worked in the cultivation of beets. Even among the 6 and 7 year old children one child in four was reported as working. * * * (p. 19).

This is not in Russia or the Fiji Islands but in the State of Colorado, the home of the great, prosperous Great Western Sugar Co., in a State and district so ably represented by Representative TIMBERLAKE, chairman of the sugar subcommittee.

Of the 1,073 working children, 571 had already spent more than 6 weeks in the beet fields during the 1920 season, and 61 of them had worked from 12 to 17 weeks. Five children under 8 years of age, 18 between 8 and 9, and 16 between 9 and 10 had worked 10 weeks or more. One-fifth of the laborers' children had worked at least 10 weeks—practically twice as many proportionately as the children of tenant farmers. * * * (p. 20).

Page after page is given to specific cases of child labor in beet fields in Chairman TIMBERLAKE'S district, and only two or three illustrations will be furnished from that pamphlet.

Four Russian-German children, ranging in age from 9 to 13 years, came to the beet fields with their family the 1st of June. They worked at thinning and blocking for more than three weeks, 14½ hours a day, beginning at 4.30 a. m. They took five minutes in the morning and again in the afternoon for a lunch. They took 20 minutes for dinner. About July 1 they went home, remaining until the middle of the month, when the hoeing began. They spent five weeks, 14½ hours a day, hoeing, and again went home, returning September 21 for the harvest, which lasted four weeks. * * *

Three little boys of 8, 10, and 12 years, with their 15-year-old sister and their mother and father, worked on contract for more than 14 weeks, 11 and 12 hours daily, caring for 53 acres of beets. * * * (p. 23).

A little Mexican girl, aged 8 years, worked at thinning 10 hours a day for four weeks in June. She did no hoeing. * * *

The paragraph further relates to the overworking of this child 3½ weeks at 10 hours a day.

In one native American family four boys, aged 7, 10, 12, and 15 years, spent three weeks at the spring process, working an 11-hour day. They were in the field from 7 in the morning until 7 at night; took one hour off for dinner. * * *

These were not stockholders in the company that made 45 per cent profits in sugar in 1928, but the last paragraph is from a torn page of man's inhumanity to children of his fellow man; helpless children exploited by the Great Western Sugar Co., of Colorado, that makes unconscionable profits through existing sugar rates—and yet demands more.

Again I quote from the official Government report:

A Russian-German family came out from town March 22. In this family were 3 children working, 12-year-old Frieda, 9-year-old Willie, and Jim, age 7, who worked irregularly. They spent 3 weeks at the spring work, putting in a 12½-hour day; 2 weeks at hoeing for 11 hours a day; and up to the time of the agent's visit had spent about 3 weeks at the harvest, which was not yet finished. All together they worked about 9 weeks, probably very hard, since the 3 children, 1 working irregularly, and 3 adults had cared for 50 acres.

Somewhat similar working conditions were found in a family in which 2 little girls, age 12 and 13 years, with 3 adults, took care of 50 acres

of beets. The children had worked all together 11 weeks, 10 and 12½ hours a day * * * (p. 24).

Some of these children and their parents made no complaint of their work but seemed glad to get employment, which sounds like familiar sweat-shop sentiments, but a great many families, on the other hand, spoke of the hardships of the work in the beet crop, especially for women and children.

DIVIDENDS IN THE BEET FIELDS

"We all get backaches," was a common complaint. "Hardest work there is," said others. One mother "couldn't sleep nights" because her "hands and arms hurt so." Although the children being small do not have to bend over the plants as constantly as adults, therefore may not suffer the same sort of hardship, yet the work is no doubt a strain. A little girl, 6 years old, told the children's bureau agent that her back was getting crooked from her work "in beets." One mother declared that the "children all get tired because the work is always in a hurry." A contract laborer with a large acreage said that his children "scream and cry" from fatigue; and another said, "The children get so tired they don't want to eat and go right to bed. Beets are harder work than working in a steel mill. The children don't get fresh air, as they have to lie in the dust and crawl on their knees all day * * * (pp. 25-26).

Six o'clock was reported as the usual hour for beginning work, but some families started as early as 4.30 or 5 o'clock. "The old man chases us down to the field early in the morning (4 o'clock)," said one boy, adding, "But we get even with him; whenever he leaves the field we stall." After a hasty breakfast, eaten in some cases in the field, work was practically continuous until midday, when the majority of the families went home to dinner.

Can any picture of American working conditions be more degrading than this grinding of helpless children by the Great Western Sugar Co., a company that makes half of the American beet sugar at existing tariff duties and reported 45 per cent profits for last year?

The Government report continues:

There was no general lay off, as in some kinds of farm work, during the heat of the day. Only an hour was usually allowed for dinner. A few families reported their "dinner hour" as lasting only 10 minutes. Work continued until 6 or 7 o'clock. About half the laborers' families said that they took a rest of 15 minutes or half an hour in the morning or afternoon, or both, often eating a slice of bread at that time, but some regarded such a practice as all foolishness! * * * (p. 27).

On page 31 I quote:

"Fall is the meanest time," declared one of the fathers. "Women are wet up to their waists and have ice in their laps and on their underwear. Women and children have rheumatism. Jacob (13 years old) is big and strong, but already feels rheumatism, so he has to kneel while topping. Can't stand all day." Often the clothing freezes stiff in the frosty air, and only by midday does the warm sun dry off the cotton skirts and overalls. In wet years the workers say they get muddy to the skin. During the last weeks of the harvest light falls of snow frequently add to the discomfort. The children's hands are chapped and cracked from the cold, and their fingers are often sore and bleeding.

The company officials forgot to give that picture to the Ways and Means Committee.

Page after page of this enlightening report relates to work in the beet fields and the housing and sanitation, where lack of both and living quarters are bad beyond description. On page 67 I quote:

HERE'S HOW THE WORKERS LIVE

Many of the beet-field laborers' families live under such conditions of overcrowding that all comfort and convenience had to be sacrificed, and no privacy was possible. * * * There were 320 of these families, amounting to 77 per cent of the total number. Only 21 per cent reported less than 2 persons per room. Almost half were living with 3 or more persons to a room. One hundred and ninety-one families, averaging 6.6 persons per family, occupied 2-room dwellings. Among them were 94 households of more than 6 members each and 14 of 10 or more each; the latter included 1 household in which there were 2 families and another consisting of 3 families. This means that from 3 to 7 persons had to sleep in each of the two rooms, one of which had to be used as a kitchen and living room. Fifty families, consisting of from 3 to 11 persons per family, lived in one room. One of these households included a father, his son and daughter, each over 16 years of age, a younger child, and a girl over 16 who helped the family with the beet-field work * * * (p. 67).

We send missionaries to China; why not Colorado? We expect children to grow up into decent men and women, with 11 people living in one room. That is necessary, however, if 45 per cent annual profits are to be squeezed out of child labor by the Great Western Sugar Co.

On page 69 regarding the health of school children working in the beet fields it says of these counties in Chairman TIMBERLAKE'S district:

It was not difficult in Weld and Larimer Counties to find during school hours in October, November, and December, 1920, 1,022 children belonging to families employed in the beet fields, although the beet harvest season was at its height and many schools in these two counties had been closed to allow the children to work in the fields. These children may be considered a fairly typical group as far as working conditions are concerned. * * *

And the same company that made 45 per cent profits last year continues to exploit these children.

In the same document of 122 pages is contained a long discussion of child-labor conditions in Michigan beet fields. I have referred to this in my previous discussion in the House and can only add that the facts heretofore recited are sustained by specific cases on every page. For illustration, on page 85—

In the 511 families visited were 763 children between 6 and 16 years of age who had worked in the beet fields in 1920. Only 1 in 5 had reached the age of 14 or 15, while 1 in 4 was less than 10 years of age. Over one-half were from 10 to 13 years of age. In some families no child was considered too young to count as a beet-field worker. One Hungarian father, a miner from West Virginia, who said he had come to the beet-growing country because his children were too young to work in the mines, but could help "in beets," had all four of his children at work in the fields, the oldest 12, the youngest only 5 years of age. Four children under the age of 6 were reported by their parents as working. In most families, however, the tendency was to spare the very youngest children. * * * Nevertheless in families in which it appeared to be customary for children to work, judging by the fact that at least one older child was a beet-field worker, almost one-fifth of the 6-year-old children and two-fifths of those who were 7 years of age were at work. At 8 three-fifths of the children in these families, and at 11 practically all, had begun working in the beet fields.

Page after page of statistics are given to child-labor disclosures, which statements have been specifically denied before the committee in a telegram from the Governor of Michigan.

AFTER THE SUGAR HARVEST

Many items of human interest affect this Mexican child-labor situation and I could quote extensively on the same, but a paragraph from the speech of Hon. JOHN C. BOX, of Texas, May 23, 1928, has been called to my attention and ought not to be overlooked. He quotes witnesses before his committee as saying:

Mexican labor receives lowest wages paid this section. Living conditions this class intolerable. * * *

From a letter written March 5, 1928, to me from San Antonio, Tex., by R. T. Glenn:

"A Mexican laborer can live and does live on about 15 cents per day table expenses. This is common knowledge here. As for housing, from one to three families live in one shack * * *."

H. H. Maris, who signs as president of the Humanitarian Heart Mission, writes me from Denver, Colo., March 1, 1928, a letter from which I quote:

"The sugar-beet company imports the very poorest and ignorant Mexicans with large families; brings them to Denver, working them in the beet fields until snow flies. They then congregate in Denver with \$15 to \$20 to keep a large family, and no possible means of support by labor in sight, through the winter season. The police and city kangaroo courts vag most of the men, keeping them in jail for the winter, leaving their poor mothers and their children to starve through these desolate months. Children absolutely barefooted in the snow. I have seen 29 men and women in one room with an old, dirty bed mattress laying on the floor of the room, all of the 29 adults using the mattress for a pillow, the small children and babies in the center of the mattress and the adults laying on the floor with only newspapers under them * * *."

Again remember this is not in the wilds of Africa, but in Colorado after the beet-field worker has received his part of the profits from his work.

I quote from paragraphs on page 108, that are typical of many other statements in this illuminating publication:

Many women declared "beet work is no work for women," and told of their difficulties in trying to help in the fields and perform the most necessary household tasks, even when adequate care for the children was not considered. The following are typical comments on this situation made by mothers, all of whom had young children.

"I have to work in the field from 4 o'clock in the morning until 7 at night and then come home and cook and bake until 12 and 1 o'clock."

"At first I tried to cook—worked in the field from half past 5 in the morning until 7 at night, and then came home, and was often making bread and cake at 1 and 2 in the morning. But it was too

much, and toward the end of our hoeing there were days when we practically lived on milk." * * *

"The work is too hard for any woman. By the time you have worked 12 or 13 hours a day bending over you don't feel much like doing your cooking and housework." * * *

WHO DENIES THESE GOVERNMENTAL REPORTS?

Some of the descriptions regarding children of the mothers in these pages are so heart-rending that they condemn the entire sugar-beet business as conducted in this country. It has been said by the Governor of Michigan that these painstaking surveys of conditions in Michigan and, I also assume, in Colorado are not to be absolutely accepted. There can be no doubt in the mind of anyone who reads the facts related and many pages of specific cases referred to that every illustration was correctly noted and in many cases understates rather than overstates the situation.

No wonder governors resent such criticism of their Commonwealths. Will the Governor of Michigan and the Governor of Colorado invite Congress to send a committee to those States to investigate the charges made in my speech of April 20 and others recited herein? I will warrant that anything other than a whitewashing committee will find the child-labor situation practically as stated by responsible Government inspectors, who have no reason to exaggerate conditions. They are bad enough without exaggeration.

HERE IS AN INDEPENDENT COLORADO REPORT

I have before me the Fifth Annual Report of the Mexican Welfare Committee of the Colorado State Council of the Knights of Columbus. This report is as severe in its denunciation of existing labor conditions in Colorado as anything I have seen, but I can only give space to one or two quotations which are typical of many others in the same publication:

TWENTY THOUSAND MEXICAN WORKERS

During 1926, according to the best information obtainable, there were more than 15,000 Spanish-speaking beet workers, "hands," in the northern Colorado sugar-beet districts; over 3,000 in the Arkansas Valley, about 1,000 on the western slope, and about 4,000 in the mines, on the railroads, and in other common labor. * * *

During part of the year 4,000 to 7,000 Spanish-speaking people live in Denver. There they are crowded into slum districts and live under conditions and subject to environment and influence that can not help but be detrimental to health, morals, and religious faith. * * *

MIGRATION AND HOUSING

Because of bad housing, polluted water, lack of screens, and sanitation, a great deal of preventable sickness always exists and the death rate, particularly among the women and children, is high. In one district in Weld County, a recent survey made by the National Child Welfare Committee states that "out of 104 Mexican families 57 lost 152 children by death. This averaged 2.7 children per family for the ones who lost and 1.5 for the group." Such conditions are a menace not only to the Mexicans but because of possible epidemics to entire communities.

Publication after publication carries out this same tale of labor conditions in the beet-sugar fields. Remember this is from Colorado where the sun shines alike on the just and unjust; on the helpless children in beet fields and on those who exploit them.

Let me further say that nobody in Colorado has yet furnished a scintilla of evidence that the beet growers of the State share in the prosperity of the mill owners. The beet growers continue to work in jeans and rags, but their mill employers will parade in silks until a better and fairer adjustment of profits occurs.

THIS IS FROM AN OFFICIAL COLORADO STATE PUBLICATION

Other and more recent statistics have been made of the children working in the beet-sugar farms in northern Colorado, and I have before me a publication entitled "Series 27," issued November, 1926, by the Colorado Agricultural College, Fort Collins, Colo. It comprises 160 pages on child labor. It would be impossible for me to more than touch upon conditions as related by this book, but again I invite your attention to pages that recite unbelievable conditions now existing in sugar-beet fields carried on by the Great Western Sugar Co. in Colorado. Remember again this is Colorado testimony. Quoting from page 35 of this publication it states:

Nine children were found working at 6 years of age, 2 of these being children of owner, 3 of tenant, and 4 of contract families. There were 28 children working at 7 years of age, 22 of whom were from the contract family. There were 91 8-year-old workers, 73 of whom were contract children, 11 tenant, and 7 owner. The largest number of workers of any age was at 14, where we found 164. This is not at all significant, as 161 children were working at 12, 155 at 13 years.

More than 1,000 working children of all ages and tenures worked in the handwork of crops an average of 8.3 hours a day for an average of

44 days. This included all children from 6 to 15 years of age, and it included many children who worked for a very short time and for a very few hours per day. * * * (p. 37).

Among the 6-year-olds, one worked 14 hours a day, two 12 hours a day, and one 10 hours a day. (In a State that boasts of its high standards and in a country where American labor and union rules have recognition.) Among the 7-year-olds, one worked 13 hours a day, three worked 12 hours a day, one 11 hours, and five 10 hours a day. Of the 9-year-olds, one worked 14 hours a day, two 13 hours, ten 12 hours, fifteen worked 11 hours, and forty-three worked 10 hours a day. Among the 12-year-olds, seven worked 14 hours, four 13 hours, fifteen 12 hours, twenty-two 11 hours, and sixty 10 hours (p. 38).

This is taken from an official Colorado agricultural publication that describes working conditions in the Great Western Sugar Co. beet fields. I submit they are nowhere worse in the world than in the State of Colorado.

Again I quote:

Two Mexican children worked 16 hours a day, 1 German and 13 Spanish working 14 hours a day; 13 Germans and 10 Mexicans working 13 hours a day, and so on * * *.

Union labor is contending for seven and eight hour days and five days a week. Is it possible that union labor and the American Federation of Labor alone need protection, or will its officials close its eyes to the scandalous condition found among these children who work among American sugar-beet fields? Page after page is given over to such children and also to their families. It is largely a repetition of conditions related in the Department of Labor publication, but I quote a paragraph from page 90, which sounds familiar to those who are seeking the facts:

The contract houses are usually unattractive, frequently in bad repair; often without screens, often in a dirty condition to begin with. One-fourth of them are old. Often surroundings are dirty, and frequently the houses are too close to barns or corrals. The toilet (always outdoor) is frequently little short of indecent in condition and repair. Granted that the conditions are as good or better than in the previous homes of the people under consideration, it becomes a question of American ideals and standards.

So says this Colorado agricultural publication.

This is not only for the inspection of labor officials, but calls for words of explanation from the Great Western Sugar Co., to which I will briefly refer later. On page 91 it states:

I find that the average number of persons per bedroom among the owner families is 1.91; among tenant families, 2.4; owner additional, 2.4; wage, 2.5; and contract, 4 * * *.

MANY TALES OF MISERY FOR SUGAR PROFITEERS

Of the 296 contract families in the study 19 lived in 1-room shacks. Of these 19 families in 1-room shacks there are in two of them 3 persons; in two others, 4 persons; in three others, 8 persons; in one 1-room shack, 6 persons; in four 1-room shacks, 7 persons; in three 1-room shacks, 8 persons; and one other, 12 persons. Nine of these 1-room shacks house 6 or more persons, one houses 12 persons, and a lean-to tent is provided for the hired man. Thirteen of these families are of Spanish descent and 6 are Russian-Germans. * * * There are no bath facilities in any of these houses * * *.

Continuing on page 99:

One father expressed the housing conditions this way, "The general conditions of the house ain't much." Said a Mexican mother with 12 in the family, all in one room, "How can you expect folks to live decently when given a place like that [pointing to the shack] to live in?" And the surveyor added, "When it rains, with the roof full of holes, they are wet; in May it was impossible to keep warm, and now it is insufferably hot."

The houses of the contract families may be expected to be found in locations near barns or irrigation ditches, where flies and mosquitoes are most numerous. Yet these are the very buildings with the largest number of unscreened doors and windows. * * *

It will readily be understood that people living under such conditions in the enlightened State of Colorado and children of 6 years working 10 hours a day and more in the beet fields without any bathing facilities in the average house are not given much recreation. After having visited cane-sugar fields in the Philippines, Porto Rico, Hawaii, and Cuba, I say without hesitation that nothing in all these islands can compare in degraded surroundings and insanitary conditions with those described in Colorado. Nowhere in all the islands have I observed child labor as depicted in these various publications. In fact, I challenge any Member of the House to present evidence of child labor in any of the islands or elsewhere that will compare with the conditions described by these official publications to exist in Colorado and in Michigan.

Only half the story has been told. I hold in my hands the following statement of the Great Western Sugar Co., that owns large sugar mills to which sugar beets are furnished under conditions described in the United States Department of Labor and Colorado Agricultural College reports.

The Great Western Sugar Co. in 1928 reports 504,000 short tons production of beet sugar. This has been estimated at 48 per cent instead of 58 per cent as previously stated, or practically one-half of our total beet-sugar production. Its annual report for the year 1928 is made to February 28, 1929, and is as follows:

Net income, after deducting expenses, interest, depreciation, and taxes	\$7,785,000
Dividends on preferred stock	1,050,000
Earned on common stock	6,735,000
Outstanding common stock	15,000,000
Per cent earned on common stock, 44.9 per cent.	

Let me repeat that the percentage of profits of the Great Western Sugar Co., that produces one-half of all the beet sugar consumed in the United States, was practically 45 per cent in 1928. Ten per cent on stock gives a generous earning capacity, but this company made \$5,235,000 more than this 10 per cent in its \$6,735,000 of earnings, and these earnings were made after screwing down beet growers to \$7 per ton on sugar beets—beets produced by child labor and broken-down women, by families living in hovels, who worked from 10 to 12 and sometimes 14 hours a day in order to roll up profits in 1928 of 45 per cent on common stock of this company. And these beet growers and workers never shared in the 45 per cent profits of the mill stockholders. They drank only the dregs.

If the average American citizen would say that the Great Western Sugar Co., now knocking on the doors of Congress demanding a 40 per cent increase in present rates, or a 60 per cent tariff duty on imported sugar, should first take account of stock, that the responsible officers of this organization and their legislative representatives must first demand of the company that it furnish living conditions and decent sanitary surroundings and less child labor before it comes to Congress for aid, then the company, if in financial need, would come with clean hands.

Never in all history, I submit, has such monstrous proposal been offered to Congress as that disclosed by this great sugar company that made 45 per cent profits on its common stock last year out of \$7 per ton beet-sugar contracts with labor produced by women, and children in many cases under 7 and 8 years of age.

Conditions disclosed, it must be remembered, are found in the home district of the chairman of the sugar subcommittee who represents 16 mills of the Great Western Sugar Co., located in his district.

As stated before, I repeat, less than 8 per cent of all the domestic sugar consumed in the United States is produced in beet-sugar factories outside of the Great Western Co., and that company, with its scandalous record of labor conditions and enormous profits, requires no help. It seems incredible that the 120,000,000 consumers in the United States are to be held up by the throat in this tariff bill in order to give a small pittance to sugar mills that produce 8 per cent of the product, when in order to do so we will be called upon to raise the price of 12,000,000,000 pounds of sugar that are annually consumed by the American people.

In my speech of April 20 I dwelt at some length on many of the conditions that confront the beet-sugar industry to-day that call for relief, but an increased tariff rate will only serve to increase the profits of the Great Western Sugar Co., that earned 45 per cent on its common stock in 1928. It will serve in like manner to increase the large reported earnings of the Porto Rican, Philippine, and Hawaiian mills and to stimulate sugar production so that free imports from these islands, that increased 100 per cent during the last six years, will continue to increase at the same rate. Eventually the American beet-sugar mills will be wiped out with the Great Western companies holding out longer than the others but unable eventually to compete with tropical climate, ratoon crops, and labor conditions of the Tropics.

I say this because it is incredible that the Great Western Sugar Co. will be long permitted to employ child labor and weak women in the fields, surrounded by living conditions that have been described by governmental publications. When well-paid American labor is placed in the fields it will not agree to contract for \$7 per ton beet sugar but will demand its share of the profits, and when that occurs the Great Western Sugar Co. will meet its Waterloo in comparison with free sugar from the islands.

Again I repeat, I have no desire to injure any mills. I believe they should be sustained for national reasons, and we ought to preserve our sugar industry, but not by child labor or disgraceful conditions that surround some of these mills to-day.

I have proposed a small bounty to be paid out of the revenues received from tariffs levied on 3,000,000 tons of sugar we now import. It is the only right solution, and in my speech of April 20 I sought to set forth in an impartial manner facts that ought to appeal to the judgment of everyone interested in the maintenance of the sugar industry.

I am opposed to a 3-cent sugar tariff because it is only temporary relief, if at all, in character, is not right to the consumer, and can not be justified from any line of reasoning. Every consumer in the land will be opposed to it when it is understood that the increased tariff is not to protect American industries by shutting out imports but to raise prices of sugar so the earnings of our sugar mills will be made larger through the increased price. It is the only reason for a tariff increase and a novel proposal in a protective tariff bill and can not be defended before any fair-minded audience.

I submit these views in this form rather than offer them in minority views. I trust they will receive the favorable consideration of the House by causing the entire sugar and molasses schedule to be reported by a Republican conference to the House for decision and that the House may pass a reasonable tariff rate on both molasses and sugar. A sugar rate of \$1.20 per hundred is in excess of a just rate for Cuba, it is contended, but that rate should be adopted by the American Congress in preference to the committee rate of \$2.40.

On molasses the existing rate of one-sixth of a cent per gallon has been agreed to for stock feed, but a rate of 2 cents per gallon for distilled alcohol is farcical because it does not protect any alcohol factories in the country. It only loads a burden on every user of industrial alcohol. There should be no distinction in molasses imports, but all ought to be placed upon a basis of one-sixth of a cent on molasses, which is the present tariff rate for stock feed.

The tariff on sugar, in my judgment, ought to be that found by a majority of the Tariff Commission, \$1.23 per hundred-weight on Cuban sugar, which gives 20 per cent preferential allowance. This rate is a just difference in cost of production between Cuba and sugar industries in this country. I hope the House will so decide.

LEGISLATION FOR GOLD STAR MOTHERS

Mr. KORELL. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on Public Law 952 of the Seventieth Congress, and to incorporate therein some references to the record of the Oregon men and women who are buried in the national cemeteries of Europe.

The SPEAKER. The gentleman from Oregon asks unanimous consent to extend his remarks in the RECORD in the manner indicated. Is there objection?

There was no objection.

Mr. KORELL. Mr. Speaker, in a world that remains all too full of grief, selfishness, and lust for power, it is well that we should set aside a day in grateful remembrance of the virtues personified in our mothers. There is no shrine at which men worship more willingly than at this one. Under the magic spell of the name "mother" there comes trooping before our minds everything that is symbolic of beauty, love, and devotion. The doors of the past swing open and there we see painted in glowing colors our mothers in their countless ministrations of tenderness and affection. Few lives have become so hardened that they are not deeply moved by the reflection of what mother has done and what she meant to each life. It was such reflections as these which induced the Members of this House to pass a law in the Seventieth Congress making it possible for gold star mothers to visit those foreign lands where so many of the young manhood of this Nation laid down their lives in paying that last full measure of devotion to country. This law is really a poem, and well may it be read on Mother's Day along with those other poems which we so dearly love to read. I shall therefore place a copy of it in the RECORD:

Public Law, No. 952, Seventieth Congress (S. 5332)

An act to enable the mothers and widows of the deceased soldiers, sailors, and marines of the American forces now interred in the cemeteries of Europe to make a pilgrimage to these cemeteries

Be it enacted, etc., That the Secretary of War is hereby authorized to arrange for pilgrimages to cemeteries in Europe by mothers and widows of members of the military or naval forces of the United States who died in the military or naval service at any time between April 5, 1917, and July 1, 1921, and whose remains are now interred in such cemeteries. Such pilgrimages shall be made at the expense of the United States under the conditions set forth in section 2.

SEC. 2. The conditions under which such pilgrimages may be made are as follows:

(a) Invitations to make the pilgrimages shall be extended in the name of the United States to the mothers and widows for whom the pilgrimages are authorized to be arranged under section 1.

(b) Upon acceptance of the invitation the mother or widow shall be entitled to make one such pilgrimage; but no mother or widow who has previous to the pilgrimage visited cemeteries described in section 1 shall be entitled to make any such pilgrimage, and no mother or widow shall be entitled to make more than one such pilgrimage.

(c) The pilgrimages shall be made at such times during the period from May 1, 1930, to October 31, 1933, as may be designated by the Secretary of War.

(d) For the purpose of the pilgrimages the Secretary of State shall (1) issue special passports, limited to the duration of the pilgrimage, to mothers and widows making the pilgrimages and to such personnel as may be selected to accompany and/or arrange for the pilgrimages, if such mothers, widows, and personnel are citizens of the United States, and (2) issue suitable travel documents, if aliens. No fee for either of such documents or for any application therefor shall be charged. Such alien mothers, widows, and personnel shall be permitted to return and be granted admission to the United States without regard to any law, convention, or treaty relating to the immigration or exclusion of aliens, if the return is made within the period covered by the pilgrimage of the particular group or, in the case of personnel, within such times as the Secretary of War shall by regulation prescribe; except that in any case of unavoidable detention the Secretary of War may extend in such case the time during which return may be made without regard to such laws, conventions, or treaties.

(e) The pilgrimages shall be by the shortest practicable route and for the shortest practicable time, to be designated by the Secretary of War. No mother or widow shall be provided for at Government expense in Europe for a longer period than two weeks from the time of disembarkation in Europe to the time of reembarkation in Europe. In the case of any mother or widow willfully failing to continue the pilgrimage of her particular group, the United States shall not incur or be subject to any expense with regard to her pilgrimage after such failure.

(f) Vessels owned or operated by the United States Government or any agency thereof shall be used for transportation at sea wherever practicable.

(g) Suitable transportation, accommodations, meals, and other necessities pertaining thereto, as prescribed by the Secretary of War, shall be furnished each mother or widow included in any pilgrimage for the entire distance at sea and on land and while sojourning in Europe and while en route in the United States from home to port and from port to home. Cabin-class accommodations shall be furnished for all transportation at sea. No mother or widow shall be entitled, by reason of any payment made by or for her, to be furnished by the Government with transportation, accommodations, meals, and other necessities pertaining thereto different in kind from those prescribed by the Secretary of War for the pilgrimage of the particular group.

(h) All pilgrimages shall be made in accordance with such regulations as the Secretary of War may from time to time prescribe as to the time, route, itineraries, composition of groups, accommodations, transportation, program, arrangements, management, and other matters pertaining to such pilgrimages.

SEC. 3. There are authorized to be appropriated such sums as may be necessary to carry into effect the provisions of this act. The Secretary of War is directed to make an investigation for the purpose of determining (1) the total number of mothers and widows entitled to make the pilgrimages, (2) the number of such mothers and widows who desire to make the pilgrimages and the number who desire to make the pilgrimages during the calendar year 1930, and (3) the probable cost of the pilgrimages to be made. The Secretary of War shall report to the Congress not later than December 15, 1929, the results of such investigation.

SEC. 4. As used in this act—

(a) The term "mother" means mother, stepmother, mother through adoption, or any woman who stood in loco parentis to the deceased member of the military or naval forces for the year prior to the commencement of his service in such forces.

(b) The term "widow" means a widow who has not remarried since the death of the member of the military or naval forces.

Approved, March 2, 1929.

The provisions of Public Law No. 952 are plain, concise, and easily understood. It appears unnecessary for anyone to attempt to construe them. The spirit that actuated Congress to enact this legislation may readily be gathered from the statement made by Mrs. Matilda A. Burling, national representative of the Gold Star Mothers' Association of America, before the House Committee on Military Affairs on January 27, 1928. For the benefit of all those who have not yet received a copy of the committee hearings I will quote just a brief excerpt from Mrs. Burling's statement:

You no doubt realize how anxious the gold star mothers are to visit sons' graves. Have you gentlemen stopped to think and consider what America would have done if it had not been for these mothers? Not alone the gold star mothers but the mothers who gave their sons to serve their country. It was the mothers who suffered to bring these boys into the world, who cared for them in sickness and health, and it was our flesh and blood that enriched the foreign soil. Can you picture the anxiety of these mothers watching at the door for the postman every day for the little letter that was to come from her boy, and the agony and suspense when those letters stopped, and then only to be replaced with a telegram from Washington informing her that her boy was wounded or missing or dead?

Many of these boys were just in the bloom of life, just going into manhood. Some of these mothers lost one, some two, and some three, and some four.

I would like to take my case for an example. On February 13, it will be the tenth anniversary of the death of my boy. He was my only child. To me he was only a child, only 17 years old when he went across. He was killed at the time when to me life was the sweetest, only to have been turned to sorrow at the receipt of the dreadful telegram announcing his death.

There are many nurses who were with the boys when they died. They have informed mothers that the boys' lips were sealed with the words "Mother, my mother." Oh, what a death, to be calling for his mother. Can the Government ever repay us for our loss?

Subsequent to the passage of Public Law No. 952 I wrote the Quartermaster General of the United States Army at the War Department for a list showing the names, organizations, and grave locations of all the members of the American forces enlisted from the State of Oregon whose remains are now interred in the cemeteries of Europe. On April 27, 1929, the Quartermaster General answered my letter. I take pleasure in inserting with my remarks a copy of the Quartermaster General's inclosure, including a list of names of Oregon heroes who gave their lives as a part of the price of victory in the late struggle for freedom, justice, and democracy.

WAR DEPARTMENT,
OFFICE OF THE QUARTERMASTER GENERAL,
Washington, April 27, 1929.

Hon. FRANKLIN F. KORELL,

House of Representatives, Washington, D. C.

MY DEAR MR. KORELL: I am inclosing herewith a list showing the names, organizations, and grave locations of the members of the American forces enlisted from the State of Oregon, whose remains are now interred in the cemeteries in Europe.

With reference to the inquiry contained in your letter of April 23, 1929, it is my opinion that Public, No. 952, Seventieth Congress, only authorizes the Secretary of War to arrange for pilgrimages to American cemeteries in Europe by the mothers and widows of the members of the military or naval forces of the United States whose remains are now interred in such cemeteries. This act would evidently not include pilgrimages to the graves of deceased veterans buried in Siberia or in places in France, Belgium, or England, other than the American cemeteries.

Very truly yours,

B. F. CHEATHAM,
Major General,
The Quartermaster General.

KEY TO NAMES OF PERMANENT AMERICAN CEMETERIES IN EUROPE

FRANCE

No. 1232. Meuse-Argonne American Cemetery, Romagne-sous-Montfaucon, Meuse.

No. 1764. Aisne-Marne American Cemetery, Belleau, Aisne.

No. 34. Suresnes American Cemetery, Suresnes, Seine (near Paris).

No. 636. Somme American Cemetery, Bony, Aisne.

No. 608. Oise-Aisne American Cemetery, Seringes-et-Nesles, Aisne.

No. 1233. St. Mihiel American Cemetery, Thiaucourt, Meurthe-et-Moselle.

BELGIUM

No. 1252. Flanders Field American Cemetery, Wearaghem, Belgium.

ENGLAND

No. 107-E. Brookwood American Cemetery, near London, England.

BURIAL PLACES IN EUROPE OF DECEASED SOLDIERS FROM OREGON

First Division

Waldo E. Caulfield, sergeant, Headquarters Detachment, No. 1232, grave 37, row 15, block F.

Otis Hays, corporal, Company C, Sixteenth Infantry, No. 1764, grave 4, row 11, block B.

Ray Ross Bravinder, second Lieutenant, Company F, Eighteenth Infantry, No. 1232, grave 23, row 41, block B.

Smith F. Ballard, private, Company D, Eighteenth Infantry, No. 608, grave 19, row 23, block C.

Niles H. Galusha, private (first class), Company F, Eighteenth Infantry, No. 34, grave 1, row 5, block A.

George Schubert, private (first class), Company D, Eighteenth Infantry, No. 1232, grave 22, row 33, block D.

Fred E. Aune, private, Company C, Twenty-sixth Infantry, No. 608, grave 9, row 25, block A.

George J. Neff, private, Company G, Twenty-sixth Infantry, No. 608, grave 5, row 36, block A.

Glen E. Schaap, private (first class), Company L, Twenty-sixth Infantry, No. 1232, grave 10, row 25, block D.

Conrad C. Cockerline, private, Company A, Twenty-eighth Infantry, No. 1232, grave 18, row 3, block F.

Willis Hines, private, Company A, Twenty-eighth Infantry, No. 608, grave 17, row 6, block D.

Charlie R. Kelley, private, Battery F, Fifth Field Artillery, No. 34, grave 34, row 4, block A.

John Hokanson, private, Company A, First Engineers, No. 636, grave 3, row 21, block C.

Second Division

Lambert A. Wood, first lieutenant, Ninth Infantry, No. 608, grave 9, row 39, block D.

Calvin T. Funk, sergeant, Company L, Ninth Infantry, No. 1232, grave 15, row 46, block A.

Harry H. Stalnaker, private (first class), Headquarters Company, Ninth Infantry, No. 608, grave 28, row 26, block D.

Oscar Zimmerman, private, Company I, Ninth Infantry, No. 1233, grave 32, row 19, block C.

Alfred Christensen, private, Company K, Twenty-third Infantry, No. 1764, grave 57, row 9, block B.

Delbert Reeves, corporal, Company M, Twenty-third Infantry, No. 608, grave 5, row 20, block B.

Emery A. Bartlett, private, Twentieth Company, Fifth Regiment United States Marine Corps, No. 34, grave 21, row 15, block B.

Vearn William Young, corporal, Eighteenth Company, Fifth Regiment United States Marine Corps, No. 608, grave 6, row 22, block C.

Edmond Carl Bollack, private, Seventy-fourth Company, Sixth Regiment United States Marine Corps, No. 1232, grave 31, row 35, block D.

Joseph Charles Clark, private, Seventy-ninth Company, Sixth Regiment United States Marine Corps, No. 1764, grave 77, row 7, block A.

Rolla H. Frazer, sergeant, Seventy-eighth Company, Sixth Regiment United States Marine Corps, No. 1232, grave 34, row 33, block G.

Milton James Harper, private, Ninety-sixth Company, Sixth Regiment United States Marine Corps, No. 1232, grave 25, row 20, block F.

George Milner Snidow, private, Seventy-eighth Company, Sixth Regiment United States Marine Corps, No. 1233, grave 25, row 13, block D.

Ernest A. Eckerlen, private, Fifteenth Company, Sixth Machine Gun Battalion United States Marine Corps, No. 1232, grave 25, row 46, block D.

Third Division

Robert B. Berner, private, Battery E, Tenth Field Artillery, No. 608, grave 13, row 10, block B.

Fourth Division

Jim O'Connor, private, Company E, Forty-seventh Infantry, No. 608, grave 12, row 18, block B.

Guy R. Vaughn, private, Company I, Fifty-eighth Infantry, No. 1232, grave 14, row 46, block C.

Robert E. Clark, corporal, Company B, Fourth Engineers, No. 608, grave 18, row 9, block D.

Thomas E. Duncan, private (first class), Company E, Fourth Engineers, No. 1232, grave 30, row 14, block E.

Wilson H. Rothermel, private, Company A, Fourth Engineers, No. 608, grave 38, row 29, block B.

Thomas L. Freestone, chauffeur Supply Corps, Eighth Field Service Battalion, No. 1232, grave 18, row 2, block B.

Fifth Division

Jens J. Solhaug, corporal, Company I, Eleventh Infantry, No. 1232, grave 36, row 30, block C.

John H. Rickman, private (first class), Company G, Sixty-first Infantry, No. 1232, grave 18, row 25, block F.

Seventh Division

Raphal K. Hudson, sergeant, Company D, Twenty-first Machine Gun Battalion, No. 1233, grave 7, row 14, block D.

Eighth Division

Wilfred King, private, Company F, Eighth Infantry, No. 34, grave 8, row 6, block C.

Twenty-sixth Division

William P. Kool, private (first class), Company C, One hundred and first Field Service Battalion, No. 1764, grave 71, row 13, block A.

Twenty-eighth Division

Melvin S. Iverson, private, Company D, One hundred and ninth Infantry, No. 1232, grave 26, row 8, block C.

Harry Melby, private, Company F, One hundred and ninth Infantry, No. 1233, grave 9, row 5, block A.

Bennie L. Mortenson, private, Company L, One hundred and ninth Infantry, No. 1232, grave 35, row 20, block H.

Lee G. Ray, private, Company B, One hundred and ninth Infantry, No. 1233, grave 4, row 6, block B.

Rufus E. Sell, private, Company D, One hundred and ninth Infantry, No. 1232, grave 9, row 18, block B.

Carl M. Bostrom, private, Company K, One hundred and tenth Infantry, No. 1232, grave 26, row 33, block H.

Love A. Conrad, private, Company E, One hundred and tenth Infantry, No. 1232, grave 36, row 25, block G.

Quincy A. Flinn, private, Company H, One hundred and tenth Infantry, No. 1232, grave 13, row 31, block D.

Walter Hoereth, private, Company C, One hundred and tenth Infantry, No. 1232, grave 5, row 16, block C.

Charles H. Jacques, private, Company C, One hundred and tenth Infantry, No. 1232, grave 32, row 17, block H.

Delbert Kelly, private, Company I, One hundred and tenth Infantry, No. 1232, grave 6, row 23, block B.

Addison M. W. Ball, private, Company L, One hundred and eleventh Infantry, No. 1232, grave 17, row 27, block E.

Paul E. Bucknum, private, Company L, One hundred and eleventh Infantry, No. 1233, grave 33, row 8, block B.

Emiddio De Rosa, private, Company I, One hundred and eleventh Infantry, No. 1233, grave 28, row 2, block B.

Fritz Erickson, private, Company M, One hundred and eleventh Infantry, No. 1232, grave 34, row 37, block D.

William R. Flint, private, Company K, One hundred and eleventh Infantry, No. 1233, grave 8, row 6, block C.

Elbert C. Johnson, private, Machine Gun Company, One hundred and eleventh Infantry, No. 1232, grave 25, row 33, block H.

Henry Leggat, private, Machine Gun Company, One hundred and eleventh Infantry, No. 1232, grave 9, row 31, block G.

Gasper Lattanzi, private, Company L, One hundred and twelfth Infantry, No. 1232, grave 1, row 42, block F.

Conrad Leines, private, Company K, One hundred and twelfth Infantry, No. 1232, grave 7, row 14, block E.

Edward A. Matuska, private, Company H, One hundred and twelfth Infantry, No. 1232, grave 11, row 14, block G.

Rector Morgan, private, Company I, One hundred and twelfth Infantry, No. 1232, grave 12, row 39, block F.

John Stephenson, private, Company A, One hundred and twelfth Infantry, No. 1232, grave 21, row 30, block B.

Albert W. Tindale, private, Company B, One hundred and twelfth Infantry, No. 1232, grave 34, row 38, block B.

Thirty-second Division

Lester C. Reese, mechanic, Company B, One hundred and twenty-fifth Infantry, No. 1232, grave 19, row 8, block A.

Anibale Desantis, private, Company D, One hundred and twenty-sixth Infantry, No. 1232, grave 18, row 46, block C.

Herman J. Kolkana, private, Company K, One hundred and twenty-sixth Infantry, No. 608, grave 8, row 7, block C.

Ray U. Nicholson, private (first class), Company K, One hundred and twenty-sixth Infantry, No. 1232, grave 31, row 45, block B.

Mervin F. Hammond, private, Company B, One hundred and twenty-seventh Infantry, No. 608, grave 36, row 19, block B.

Ernest S. Moenkhouse, private (first class), Company B, One hundred and twenty-seventh Infantry, No. 1232, grave 5, row 19, block D.

Andrew D. Ottinger, private, Company A, One hundred and twenty-seventh Infantry, No. 608, grave 29, row 18, block B.

Frank J. Schur, Wagon Supply Company, One hundred and twenty-seventh Infantry, No. 1232, grave 22, row 43, block B.

Harold C. Skinner, private, Company A, One hundred and twenty-seventh Infantry, No. 1232, grave 32, row 21, block E.

Edwin A. Tanson, private, Company E, One hundred and twenty-seventh Infantry, No. 608, grave 23, row 14, block A.

Gust S. Toskan, private, Company E, One hundred and twenty-seventh Infantry, No. 1232, grave 22, row 34, block D.

Albert Uno, private, Company B, One hundred and twenty-seventh Infantry, No. 1233, grave 7, row 11, block A.

Preston M. Wright, private (first class), Company E, One hundred and twenty-seventh Infantry, No. 608, grave 1, row 17, block D.

Clifford Oscar Harris, second lieutenant, Company G, One hundred and twenty-eighth Infantry, No. 608, grave 2, row 37, block A.

Robert MacGregor, private, Company A, One hundred and twenty-eighth Infantry, No. 1233, grave 26, row 9, block B.

Fortieth Division

Raymond J. Cross, private, Company G, One hundred and fifty-eighth Infantry, No. 1233, grave 5, row 12, block A.

Ralph B. Rees, private, Headquarters Company, One hundred and fifty-eighth Infantry, No. 1233, grave 33, row 4, block A.

Forty-first Division

Kinsley C. Hendricks, private, Company I, One hundred and sixty-first Infantry, No. 1233, grave 22, row 27, block A.

Harry A. Savage, private, Company B, One hundred and sixty-first Infantry, No. 608, grave 11, row 21, block C.

Hiram I. Cole (alias) (correct name, Hugh Cole Alger), musician (first class), Headquarters Company, One hundred and sixty-second Infantry, No. 608, grave 7, row 35, block B.

Howard B. Dawson, private, Company G, One hundred and sixty-second Infantry, No. 34, grave 24, row 9, block B.

Walter E. Heinz, private, Company I, One hundred and sixty-second Infantry, No. 608, grave 11, row 28, block A.

Burt D. Leavens, corporal, Company H, One hundred and sixty-second Infantry, No. 636, grave 10, row 3, block A.

Walter L. Nelson, corporal, Company E, One hundred and sixty-second Infantry, No. 1233, grave 9, row 11, block B.

Edwin H. Olson, private, Machine Gun Company, One hundred and sixty-second Infantry, No. 107-E, grave 16, row 5, block C.

Paul Rich, private (first class), Company M, One hundred and sixty-second Infantry, No. 1233, grave 17, row 3, block C.

Thomas Scott, private, Headquarters Company, One hundred and sixty-second Infantry, No. 608, grave 6, row 21, block A.

Lawrence A. Witherspoon, private (first class), Machine Gun Company, One hundred and sixty-second Infantry, No. 608, grave 8, row 30, block A.

John Mekus, private (first class), Company M, One hundred and sixty-fourth Infantry, No. 1233, grave 20, row 18, block A.

Manuel Monese, private, Company B, One hundred and forty-seventh Machine Gun Battalion, No. 1233, grave 26, row 28, block A.

Benjamin R. Carlson, private, Battery E, One hundred and forty-sixth Field Artillery, No. 1764, grave 7, row 5, block A.

Chester W. Brown, sergeant, Battery B, One hundred and forty-seventh Field Artillery, No. 1232, grave 21, row 40, block B.

James C. Gardner, private (first class), Battery B, One hundred and forty-seventh Field Artillery, No. 34, grave 29, row 3, block A.

James E. Gardner, corporal, Battery B, One hundred and forty-seventh Field Artillery, No. 1232, grave 12, row 20, block A.

John H. McClurg, private (first class), Battery B, One hundred and forty-seventh Field Artillery, No. 1232, grave 13, row 28, block E.

Floyd B. Young, sergeant, Battery A, One hundred and forty-seventh Field Artillery, No. 1232, grave 13, row 38, block F.

Arthur J. Cronquist, first sergeant, Battery E, One hundred and forty-eighth Field Artillery, No. 608, grave 23, row 29, block B.

Homer R. McDaniel, sergeant, ordnance detachment, One hundred and forty-eighth Field Artillery, No. 1232, grave 18, row 2, block E.

Henry E. Wadsworth, private (first class), Headquarters Company, One hundred and forty-eighth Field Artillery, No. 34, grave 27, row 9, block A.

James M. Webster, private, Battery D, One hundred and forty-eighth Field Artillery, No. 608, grave 14, row 9, block D.

Forty-second Division

August C. Jorgenson, private, Company A, One hundred and sixty-fifth Infantry, No. 1232, grave 24, row 27, block D.

Seventy-seventh Division

Harry Blake, private, Company G, Three hundred and fifth Infantry, No. 1233, grave 31, row 19, block A.

Jesse B. Collamore, private, Company M, Three hundred and fifth Infantry, No. 1232, grave 38, row 16, block A.

Walter C. Crane, private, Company M, Three hundred and fifth Infantry, No. 1232, grave 10, row 32, block G.

Hans J. S. Hansen, private, Company M, Three hundred and fifth Infantry, No. 1232, grave 11, row 30, block E.

Harry A. King, private, Company M, Three hundred and fifth Infantry, No. 1232, grave 14, row 30, block A.

Herman Klein, private, Company M, Three hundred and fifth Infantry, No. 1232, grave 7, row 12, block F.

Paul A. Lorenz, private, Company I, Three hundred and Fifth Infantry, No. 1233, grave 13, row 8, block A.

Edward McIntyre, private, Company A, Three hundred and fifth Infantry, No. 1232, grave 27, row 20, block C.

Frank E. Miller, private (first class), Company D, Three hundred and fifth Infantry, No. 1232, grave 19, row 23, block H.

John M. Montano, private, Headquarters Company, Three hundred and fifth Infantry, No. 1232, grave 35, row 18, block D.

Sivlio Palandri, private, Company L, Three hundred and fifth Infantry, No. 1232, grave 27, row 7, block B.

William Vaughn, private (first class), Company I, Three hundred and fifth Infantry, No. 1232, grave 27, row 2, block A.

Robert R. Whitted, private, Company H, Three hundred and fifth Infantry, No. 1232, grave 38, row 13, block B.

Vincent Winniford, private, Company H, Three hundred and fifth Infantry, No. 1233, grave 16, row 18, block D.

Francis M. Yost, corporal, Company M, Three hundred and fifth Infantry, No. 1232, grave 23, row 31, block A.

Giuseppe Castiglione, private, Company B, Three hundred and sixth Infantry, No. 1232, grave 13, row 29, block B.

Henry Cooper, private, Company G, Three hundred and sixth Infantry, No. 1232, grave 14, row 22, block B.

Edward Morin, private, Company I, Three hundred and sixth Infantry, No. 1232, grave 2, row 13, block D.

Carl A. Anderson, private, Company K, Three hundred and seventh Infantry, No. 1233, grave 35, row 17, block B.

Jacob Kerber, private, Company F, Three hundred and seventh Infantry, No. 1232, grave 31, row 27, block F.

Henry G. Schwoch, private, Company H, Three hundred and seventh Infantry, No. 1232, grave 14, row 34, block F.

Harry C. Beeson, private, Company A, Three hundred and eighth Infantry, No. 1232, grave 14, row 13, block B.

Loranza Berg, private, Company A, Three hundred and eighth Infantry, No. 1232, grave 18, row 5, block H.

Peter Bue, private, Company D, Three hundred and eighth Infantry, No. 1232, grave 5, row 33, block F.

Paul A. Burson, private, Company A, Three hundred and eighth Infantry, No. 1232, grave 2, row 26, block F.

George A. Eastman, private, Company A, Three hundred and eighth Infantry, No. 1232, grave 18, row 41, block F.

Leonard C. Gitchell, private, Company H, Three hundred and eighth Infantry, No. 1232, grave 24, row 10, block B.

Bernard J. Lee, private, Company C, Three hundred and eighth Infantry, No. 1232, grave 30, row 10, block B.

Robert G. Little, private, Company H, Three hundred and eighth Infantry, No. 1232, grave 36, row 26, block A.

August W. Lundquist, private, Company D, Three hundred and eighth Infantry, No. 1232, grave 40, row 34, block F.

John C. Nielsen, private, Company E, Three hundred and eighth Infantry, No. 1232, grave 38, row 45, block A.

Ira L. Whitney, private, Company F, Three hundred and eighth Infantry, No. 1232, grave 13, row 31, block E.

Seventy-ninth Division

Eric R. Bradley, private, Company E, Three hundred and thirteenth Infantry, No. 1232, grave 28, row 12, block F.

Albert T. Tighe, private, Company D, Three hundred and thirteenth Infantry, No. 1232, grave 29, row 1, block A.

Eighty-first Division

Albert W. Edwards, private, Company H, Three hundred and twenty-second Infantry, No. 1232, grave 30, row 12, block H.

Nick Bruzessie, private, Company C, Three hundred and twenty-third Infantry, No. 1233, grave 1, row 22, block D.

Ninety-first Division

Guy Eastman, private, Company H, Three hundred and sixty-first Infantry, No. 1232, grave 32, row 27, block B.

William W. Hayes, private, Company D, Three hundred and sixty-first Infantry, No. 1232, grave 26, row 28, block C.

Alex Henley, sergeant, Company M, Three hundred and sixty-first Infantry, No. 1252, grave 9, row 1, block B.

Niels H. Johansen, private, Company I, Three hundred and sixty-first Infantry, No. 1232, grave 9, row 39, block B.

George S. Johnson, private, Company C, Three hundred and sixty-first Infantry, No. 1232, grave 30, row 38, block H.

Edwin J. Kelly, private, Company C, Three hundred and sixty-first Infantry, No. 1232, grave 16, row 41, block D.

Anton L. Olson, corporal, Company L, Three hundred and sixty-first Infantry, No. 1232, grave 37, row 39, block A.

George H. Otte, private, Company M, Three hundred and sixty-first Infantry, No. 1232, grave 22, row 12, block E.

Christian Petersen, private, Company B, Three hundred and sixty-first Infantry, No. 1232, grave 12, row 19, block F.

Alfonso Ricciuti, private, Company M, Three hundred and sixty-first Infantry, No. 1232, grave 7, row 15, block A.

Byron C. Streeter, private (first class), Company A, Three hundred and sixty-first Infantry, No. 1232, grave 8, row 39, block C.

Frank O. Wigle, corporal, Company L, Three hundred and sixty-first Infantry, No. 1232, grave 18, row 13, block F.

Albert M. Closterman, first lieutenant, Company E, Three hundred and sixty-second Infantry, No. 1252, grave 4, row 3, block D.

Nicholas Panagos, private, Company L, Three hundred and sixty-second Infantry, No. 1232, grave 22, row 41, block H.

Jacob Smedina, private, Company M, Three hundred and sixty-second Infantry, No. 34, grave 7, row 6, block C.

Holden Vog, private (first class), Company G, Three hundred and sixty-second Infantry, No. 1232, grave 26, row 10, block E.

Charles H. Abercrombie, captain, Company M, Three hundred and sixty-third Infantry, No. 1232, grave 2, row 25, block E.

Benjamin W. Hiney, private (first class), Company A, Three hundred and sixty-third Infantry, No. 1232, grave 11, row 30, block C.

Joseph Kardes, sergeant (first class), Ambulance Company, Three hundred and sixty-third Infantry, No. 636, grave 10, row 9, block A.

John A. Maurer, private, Company H, Three hundred and sixty-third Infantry, No. 636, grave 8, row 1, block A.

Eldon P. Swank, bugler, Company F, Three hundred and sixty-third Infantry, No. 1233, grave 2, row 6, block A.

Walter Fleischhauer, private, Company E, Three hundred and sixty-fourth Infantry, No. 1232, grave 37, row 3, block E.

Basil A. Kirsch, private, Company L, Three hundred and sixty-fourth Infantry, No. 1252, grave 22, row 4, block C.

Albert Matson, private, Company I, Three hundred and sixty-fourth Infantry, No. 1232, grave 32, row 31, block B.

Fred W. Hummel, first lieutenant, Three hundred and forty-eighth Machine Gun Battalion, No. 1232, grave 5, row 22, block A.

Mike Wilgar, private, Company C, Three hundred and forty-eighth Machine Gun Battalion, No. 1232, grave 23, row 42, block G.

Turner Neil, sergeant, Three hundred and sixty-third Field Hospital, Three hundred and sixteenth Sanitary Train, No. 1233, grave 34, row 10, block A.

Nondivisional organizations

Walter A. Phillips, first lieutenant, First Airplane Squadron, No. 1232, grave 4, row 35, block C.

Benjamin E. Fisher, private, Seventeenth Aero Squadron, No. 636, grave 24, row 16, block C.

Othmar J. West, cook, Twenty-fifth Aero Squadron, No. 1233, grave 26, row 12, block C.

Ray J. Peters, corporal, Twenty-eighth Aero Squadron, No. 1232, grave 37, row 16, block E.

Hugh D. G. Broomfield, first lieutenant, Ninetieth Aero Squadron, No. 1232, grave 5, row 15, block F.

Carl G. Beck, private, Eight hundred and twenty-ninth Aero Squadron, No. 608, grave 32, row 28, block C.

Mark H. Middlekauf, first lieutenant, Third Aviation Instruction Center, No. 1233, grave 11, row 17, block B.

Willard E. Mode, sergeant, Casualty Company, Ninth Air Service, No. 1233, grave 16, row 8, block A.

Harvey T. Palmer, private, Battery C, Sixty-fifth Regiment, Coast Artillery Corps (to be interred).

Herbert G. Spencer, private, Battery E, Sixty-fifth Regiment, Coast Artillery Corps, No. 34, grave 33, row 11, block A.

Lloyd Whitmore, private, Battery A, Sixty-fifth Regiment, Coast Artillery Corps, No. 1233, grave 10, row 13, block B.

Lawrence L. McCauley, second lieutenant, Battery D, Sixth Anti-aircraft Battalion, Coast Artillery Corps, No. 107-E, grave 8, row 3, block D.

William E. Cooke, master gunner, Heavy Artillery School, Coast Artillery Corps, No. 608, grave 19, row 2, block D.

William H. Kloosstra, private, Headquarters Detached Training Center, Coast Artillery Corps, No. 608, grave 4, row 21, block B.

Joseph W. Taylor, corporal, Sixth Casualty Company, Ordnance Department, No. 608, grave 29, row 37, block A.

David Johnston, private, Thirty-seventh Bordeaux Company, No. 34, grave 17, row 3, block A.

Joseph O. Gans, private, Company D, First Gas Regiment, No. 1232, grave 34, row 24, block D.

Forrest R. McCullough, private (first class), Second Company, Fourth Corps Battalion Replacement Division, No. 1232, grave 30, row 34, block A.

Charles R. Parkinson, first lieutenant, office Chief Signal Officer, Signal Corps, No. 608, grave 31, row 9, block C.

Henry G. Bates, private, Company D, Twentieth Engineers, No. 107-E, grave 11, row 4, block A.

Thomas R. Brown, private, Company E, Second Battalion, Twentieth Engineers, No. 608, grave 24, row 34, block B.

Lester C. Collins, private, Eighth Company, Twentieth Engineers, No. 34, grave 21, row 3, block B.

Walter Nagel, private, Company D, Twentieth Engineers, No. 34, grave 34, row 9, block A.

Edward F. Parker, private (first class), Sixteenth Company, Twentieth Engineers, No. 34, grave 33, row 2, block A.

George E. Parrish, private, Company B, Fifth Battalion, Twentieth Engineers, No. 608, grave 12, row 10, block D.

Percy A. Stevens, private, Company D, Twentieth Engineers, No. 107-E, grave 14, row 4, block A.

Henry F. Melody, private, Company H, Twenty-second Engineers, No. 1232, grave 20, row 18, block E.

Fred Cannon, corporal, Company A, Thirtieth Engineers, No. 608, grave 9, row 21, block B.

William I. Porter, fireman (second class), United States Navy, No. 608, grave 4, row 24, block A.

Thomas G. Pounstone, sergeant, Eighty-seventh Company, Transportation Corps, No. 1233, grave 10, row 5, block A.

Before the last shot of the World War was fired and its reverberating echoes became lost upon the interminable vertigo of space and while the world's attention still remained fixed on the battle fields of Europe a beautiful poem appeared. Its soul-stirring lines and classic verse penned by an officer of one of our allied armies, now sleeping, like many of his comrades, "where poppies grow" between the crosses, row on row, found an echoing response in every patriotic heart. Because its immortal words reflect the spirit and convey the challenge of countless brave men and women whose graves are located in the national

cemeteries in Europe, I believe that it will be especially appropriate to read the poem of Colonel McCrea's in this connection:

In Flanders' fields, the poppies grow
Between the crosses, row on row,
That mark our place; and in the sky,
The larks, still bravely singing, fly,
Scarce heard amid the guns below.

We are the dead. Short days ago
We lived, felt dawn, saw sunset glow,
Loved and were loved, and now we lie
In Flanders' fields.

Take up our quarrel with the foe!
To you, from failing hands, we throw
The torch. Be yours to lift it high!
If ye break faith with us who die
We shall not sleep, tho' poppies blow
In Flanders' fields.

—Lieut. Col. John McCrea.

Shortly after the conclusion of peace one of the sweetest singers in my State undertook to compose an answer to the inspiring words that I have just read. It was quoted at the first memorial service held in the public auditorium at Portland, Oreg., in honor of the Oregon men and women who made the supreme sacrifice during the World War. Because it attempts to express the sentiment which all of us feel whenever reference is made to our heroic dead, I ask your indulgence that it may be read again:

"We are the dead"—Oh, say not so,
Ye whose dear forms are lying low
Beneath the sod
In Flanders' fields "where poppies grow
Between the crosses, row on row."

In mansions fair by Him prepared
Whose Love Divine for men ye shared,
To follow in His footsteps dared,
Beyond where earthly sunsets glow
Ye live with God.

The comrades brave to whom ye threw
The torch, have to their trust been true;
Have routed far the ruthless foe,
And now, unharmed, the poppies blow
Above the bed

Where your dear clay is lying low;
And soaring lark and budding spring,
Each unto each is answering;
And as they soar and bud they sing
Ye are not dead.

In some fair land—we know not where—
The "House not made with hands" ye share;
So far—so near! But, oh, not there
Where crosses white your dear names bear
To mark the sod
Above your graves—somewhere, not there—
Ye live with God.

—Helen Eakin Starrett.

In obtaining unanimous consent to insert 'he list of those heroes of my State who lie "between the crosses, row on row," in the national cemeteries in Europe in the CONGRESSIONAL RECORD, I trust that I may say without offense to anyone that Oregon showed conspicuous patriotism in furnishing men and energy for carrying on the World War, and that it held a leading place among all the States in the Union for its promptness and effective discharge of every obligation and duty that was assigned to the States by the National Government.

Among the many things which made the patriotism of Oregon conspicuous during the great emergency I will merely mention the following: Oregon was the first State in the Nation to complete the difficult task of taking a war census; first to complete the machinery to put the selective service law into operation, and so conducted the work provided by the draft that not a hint of favoritism or irregularity in the accepting or excusing of men was ever made. Voluntary enlistments in the armed forces of the Nation followed the declaration of war so rapidly in Oregon that the State would have filled all her quotas without recourse to the selective service act had not the national policy decreed otherwise. The One hundred and sixty-second Infantry—formerly Third Oregon Infantry—was the first National Guard regiment mustered into service.

The fine quality of the fighting men that came from Oregon impressed themselves upon the commanders of the American

Expeditionary Forces in Europe. Their valor, dependability, and effectiveness in attack and under fire were frequently commented upon in official communications from commanders of troops in the fields. During the Battle of the Argonne alone more than 10,000 Oregon men were engaged along the American front in driving the Prussian forces from their last stronghold.

The list of the brave men submitted by the Quartermaster General, in compliance with my request, only tells a part of the extent of the participation and patriotic responses of the people of Oregon to the cause and demands made by it upon them. Approximately 1,029 young men sacrificed their lives; 1,100 were wounded in battle; 1,544 were discharged as disabled; and 355 received decorations from the American and other governments for valor and distinguished services in the war.

Approximately 45,000 Oregon men and women served in the armed forces of the Nation during the war. Of this number, 55 per cent were volunteers and 45 per cent were enlisted under the selective service act.

Any reference to the energetic devotion and splendid conduct which so characterized the men who filled the ranks of the Army, Navy, and Marine Corps from Oregon during the war would not be complete without a word or two about the record of those who, for one reason or another, were denied the privilege of sharing military service. Of these I will merely say that those who were forced to remain at home spent their time in keeping essential industries in operation and contributed unstintingly of money and materials to sustain the morale of the fighting forces.

The reports of the Treasury Department will show that every cash quota that the Government assigned to Oregon was quickly oversubscribed. The same thing was true in the matter of purchasing Liberty bonds and war-savings stamps. The virile patriotism and self-sacrificing services of a host of volunteer workers under intelligent, effective, and well-directed leadership carried on the work necessary to be done at home in order to support the fighting forces in the field and on the seas.

The following letter bears additional testimony to the service of my State:

HEADQUARTERS EIGHTY-SECOND INFANTRY BRIGADE,
Salem, Oreg., May 2, 1929.

HON. FRANKLIN F. KORELL, M. C.,
House of Representatives, Washington, D. C.

DEAR MR. KORELL: In accordance with your telegraphic request of April 30, there is attached statement showing the number of persons from Oregon who entered the service during the World War, together with the other information requested.

In the event further information is desired, let me know.

Sincerely yours,

GEORGE A. WHITE,
Brigadier General.

Oregon was known as the "Volunteer State."

Oregon ranked first among all the States as to the percentage of enlistments, 90.11 per cent of the gross quota having enlisted. Oregon was called on to furnish only 717 men under the first draft.

Oregon's participation in the World War

Army	35,217
Navy	7,109
Marine Corps	1,511
Nurses	243
Yeomanettes	86
	<hr/> 44,166
Volunteered	24,386
Drafted	19,780
Wounded in action	1,100
Killed in action	367
Died from disease	577
Accidental deaths	85
Discharged as disabled	1,544
Cited or decorated (includes foreign decorations)	355

Subscription to Liberty loans

First	\$13,311,850
Second	25,027,400
Third	28,291,700
Fourth	38,362,550
Fifth	28,403,350
	<hr/> 133,402,280

Oregon is proud of its record in the World War. It is proud of its citizens and soldiers; their contributions and sacrifices in the Nation's cause have written history and served humanity. To-day and always my State will revere the memory of its brave men and women. Like a gold star mother it grieves at the loss of its many sons and daughters. In its grief, however, it feels no pang of disappointment or tinge of regret. Instead, it experiences a sensation akin to a thrill of exhilaration, a call to nobler ideals, a summons to loftier patriotism, and a

high resolve that those who have gone on shall not have died in vain. In spirit as well as in thought the people of Oregon will follow the footsteps of those who shall make the pilgrimage. They will kneel in silent reverence at the graves of Oregon sons and daughters in the national cemeteries in Europe. They will join with the Members of Congress in wishing for all who are invited to make the journey made possible by the provisions of Public Law No. 952, a measure of consolation in the beautiful thought so eloquently expressed in the following exquisite poem, written by Armistead C. Gordon, of Staunton, Va.:

Here in the bronze their changeless names are wrought,
Who in youth's morning hour beheld the shore
Of time fade from their sight, and from their thought
Pass all the dreams and raptures that life bore.
We read the legend with a questioning wonder
At the inscrutable mystery and say,
Grieving that death their forms from ours should sunder:
"They died before their day."

Not so. He did not give us pain for friend,
Nor gave us death for hope of life, in vain.
Though they be dead, yet death is not the end.
Who die for home and country live again,
Here and hereafter. At the call of duty
They fell on sleep, forsaking this poor clay,
And now they flourish in immortal beauty
Who died before their day.

They are forever young. Nor care nor age
Can ever mar their loveliness and youth.
Their story blazoned on the whitest page
Of life's unfinished volume reads: "For truth
And love and faith and honor, nobly cherished,
They gave their all. Who shall their fate gainsay?
They drank life to the lees, thus to have perished
And died before their day."

They do not need our sorrow. Grief and tears
Are rather for the living than the dead.
They are inheritors of eternal years;
We are the children of decay and dread,
Soldiers of God, beautiful like archangels,
Fighters for God and country—let us pray
The lives, the deaths of these be our evangels,
Who died before their day.

THE TARIFF

Mr. BEERS. Mr. Speaker, I offer a privileged resolution from the Committee on Printing.

The SPEAKER. The gentleman from Pennsylvania offers a resolution, which the Clerk will report.

The Clerk read as follows:

House Concurrent Resolution 4

Resolved by the House of Representatives (the Senate concurring), That the bill (H. R. 2667) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, and for other purposes, as reported to the House of Representatives, together with the written report submitted therewith, be printed as a House document, and that 15,000 additional copies be printed, of which 5,000 shall be for the use of the Senate document room, 8,000 copies for the use of the House document room, 1,000 copies for the use of the Committee on Ways and Means of the House, and 500 copies for the use of the Committee on Finance of the Senate.

With the following committee amendment:

Strike out all after the resolving clause and insert the following:

"That the bill (H. R. 2667) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes, as reported from the Committee on Ways and Means to the House of Representatives on May 9, 1929, together with the text of the committee report, be printed as a House document with the bill matter showing the existing tariff law in roman type; the part proposed to be omitted inclosed in brackets, and the new legislation recommended by the committee in italic type, and that 18,500 additional copies of the publication be printed, of which 12,000 shall be for the use of the House document room, 5,000 for the Senate document room, 1,000 for the Committee on Ways and Means of the House, and 500 copies for the Committee on Finance of the Senate."

The committee amendment was agreed to.

The resolution as amended was agreed to.

Mr. HAWLEY, chairman of the Committee on Ways and Means, by direction of the committee, submitted a report on the bill (H. R. 2667) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United

States, to protect American labor, and for other purposes, which, with the accompany papers, was referred to the Union Calendar and ordered printed.

Mr. GARNER reserved all points of order.

PROHIBITION

The SPEAKER. Under the special order of the House the Chair recognizes the gentleman from Georgia [Mr. BRAND] for 30 minutes. [Applause.]

Mr. BRAND of Georgia. Mr. Speaker and gentlemen of the House, since Policeman Rouse, who killed Mr. Fleming, an alleged bootlegger, has been acquitted by a grand jury of the District of Columbia, it may appear to some that a further discussion of this homicide is unnecessary and probably unseemly. I do not think so. This is not a moot question. There is a dead man in this case and a live issue involved and unsettled, and it will remain open until it is settled right.

It is true that young Fleming rests in the city of the dead and is sleeping the eternal sleep on a hillside near his mother's home in old Virginia, yet the man who put him there is walking the streets of Washington a free man.

I contend now, as I contended on April 26, when I unexpectedly got into this debate, that this killing within the meaning of the law is murder [applause], though a jury upon the trial of such a case may be authorized to find him guilty of either voluntary manslaughter or involuntary manslaughter; and here is the crux of the case.

I also contend that the rule of law invoked—that an arresting officer has the right to kill a felon if necessary in order to capture him—does not apply to the facts of this case. What is the law under the facts of this homicide?

I give it to you as my mature judgment, without intending to offend those entertaining contrary views, that no policeman or other arresting officer has the right to kill a person for violating the prohibition law except in self-defense.

In dealing with this question I submit that when the prohibition amendment was adopted and the Volstead Act passed Members of Congress never thought for an instant that arresting officers were authorized by law to kill a person charged with violating the prohibition law in order to arrest him.

A violation of the prohibition law does not involve moral turpitude within the meaning of the law. An offense against the prohibition law belongs to that class of offenses known as *prohibita mala*; that is, man-made laws or wrongs and offenses made such by statute and prohibited by statute, and is not in the class of offenses denominated *mala in se*.

Mr. WRIGHT. Will the gentleman yield?

Mr. BRAND of Georgia. Yes.

Mr. WRIGHT. Does not the gentleman mean *mala prohibita*?

Mr. BRAND of Georgia. It is put both ways in some of the law dictionaries.

An offense against the prohibition law is not in that class of offenses which the law defines to be *mala in se*, which are wrongs in themselves, acts morally wrong, offenses against conscience, all of which involve moral turpitude, such as murder, safe blowing, rape, seduction, and highway robbery.

The killing on the part of an arresting officer of one charged with a felony, except in self-defense, is never justifiable homicide under the law, unless the offense is a capital felony or a felony approaching a capital felony, such as an offense that is atrocious, exceedingly wicked, violent, heinous, and horrible; a prohibition violation is not in any one of these classes.

All felonies at common law were capital. This is where this rule of law authorizing an officer to kill a felon in order to capture him found its origin. It was a part of the common law. The courts of the States in this country, which have not by constitution or statutory law changed the common law in this respect, still recognize this rule, but a distinction has been clearly made that in no character of a felony case should human life be taken by an arresting officer in order to capture a prisoner if any other mode or manner of capture could have been adopted.

I contend now that the rule of law making a killing under certain circumstances justifiable is based upon the fact that all felonies at common law were capital felonies, but this rule does not apply to felonies made so by statute not atrocious in their character and not involving moral turpitude. Therefore while an officer may use such force as is necessary to capture one charged with a felony, unless it is a capital felony or one approaching a capital felony or one that is atrocious in its nature, he has no right to take human life in order to effect an arrest, except in self-defense.

To hold otherwise would imperil not only the right of personal liberty but also the sacredness of human life and the lives of innocent citizens of all ages, races, and sexes as they come and go in pursuit of the avocation of their lives. Those

who condone such killing have gotten far away from the original law of the land.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted; nor shall any person be abused in being arrested, while under arrest, or in prison.

This is a paragraph in the constitution of the State of Georgia.

This provision of our Constitution is but an expression of the common law which obtains in every State of the Union unless changed by the constitution or statutory law of the State. (Constitution of the United States, sec. 6893.)

Felony, in the general acceptance of our English law, comprises every species of crime which occasioned at common law the forfeiture of lands and goods. This most frequently happens in those crimes for which a capital punishment either is or was liable to be inflicted. (Blackstone, 4th vol., sec. 94.)

The idea of felony is, indeed, so generally connected with that of capital punishment that we find it hard to separate them; and to this usage the interpretations of the law do now conform. And therefore, if a statute makes any new offense felony, the law implied that it shall be punished with death. * * * the general idea which we now entertain of felony as a crime to be punished by death. (Blackstone, 4th vol., sec. 98.)

Blackstone wrote, about 1769, that a crime might be prevented by death if the same, if committed, would be punished by death. But this rule does not now hold good, because at that time all felonies were punishable by death, whereas now but few are so punishable. (Voorhees on Arrest, sec. 184. Blackstone's rule not reliable.)

The law deprecates the necessity of killing a human being in the act of making an arrest and will not allow the party making the arrest to shield himself behind a technicality of law.

In fact, with the advancement of legal attainments and general enlightenment of society, the occasions where the taking of human life may be justified by one enforcing legal arrest are becoming fewer. (Voorhees on Arrest, sec. 183.)

But it is his duty to use no unnecessary harshness or violence; and if he use more force than is necessary, he himself becomes liable in trespass, and in case of taking life may be guilty of manslaughter, or even murder, according to the degree of wantonness and recklessness of human life manifested in the homicide. (Sec. 186.)

It has been wisely held that this doctrine does not apply to all felonies, but only to those of a more atrocious kind, as rape and murder; therefore it was held that one was not justified in shooting to prevent the escape of one who had stolen a hog. (Sec. 187.)

FLEEING FROM ARREST

There is a broad distinction between resisting arrest and the avoidance of it; between forcible opposition to arrest and merely fleeing from it.

Even in case of one charged with murder, so long as the one sought to be arrested was content peaceably to avoid arrest, the pursuing party had no right to kill him. (Sec. 189.)

In the case of *McAllister v. The State* (7 Ga. Appeals, p. 541), par. 5) Chief Justice Russell, delivering the opinion, says:

The court did not err in charging that an officer has no right to follow up one whom he seeks to arrest, and attempt to shoot or kill him, if the person sought to be arrested is making no effort to resist arrest, but is only attempting to avoid it by flight.

This is a felony case.

The general rule is:

An officer in making an arrest without a warrant upon suspicion of felony is not justified in killing the person in order to effect an arrest, except in self-defense no matter how reasonable his grounds of suspicion may be, unless a felony has actually been committed. (Corpus Juris, p. 425, sec. 61.)

What duty does the law impose upon an arresting officer before he fires the fatal shot?

In arresting for a felony a peace officer, acting without a warrant, may, if necessary, kill a felon if he resists or flees so that he can not otherwise be taken; but the law does not clothe an officer with the authority arbitrarily to judge of the necessity of killing. (Corpus Juris, p. 425, sec. 60.)

In other words, the necessity is the controlling element, whether it be expressed in one form or another. This is not a case where the officer has the right to act merely on his own behalf. The law does not clothe him with authority to judge arbitrarily of the necessity, and whether or not such necessity exists is a question for the jury. (163 Ky. 277; 173 S. W. 759.)

At common law the rule is that if a felony has been committed and the felon flees from justice, it is the duty of every man to use his best endeavors to prevent an escape; and if on the pursuit the felon is killed where he can not be otherwise taken, the homicide is justifiable, but if it is possible to apprehend the offender without such drastic steps the homicide is not justified

and it amounts at least to manslaughter. Yet it is only when there is no other reasonably apparent method for effecting the arrest or preventing the escape of the felon that an officer may, if he has performed his duty in other respects, take the life of the offender. The law which gives the officer the right to kill an escaping felon limits the right to cases in which the officer actually knows that the person whom he is seeking to arrest is a felon.

Although a person has actually committed a felony, this fact alone will not justify an officer in shooting at him with intent to kill him or do him grievous bodily harm in order to arrest him, unless the officer himself knew the essential facts at the time he fired. (Ruling Case Law, vol. 2, sec. 29.)

The officer did not know the deceased had committed a prohibition felony; he only had a suspicion about it. The only felony that he knew about was the smoke-screen felony. He did not shoot at this young boy and kill him on account of his using a smoke screen, but he did it because he was alleged to have violated the prohibition law.

Mr. CLARKE of New York. Will the gentleman permit a question?

Mr. BRAND of Georgia. I will.

Mr. CLARKE of New York. There was no smoke screen involved when Senator GREENE was shot by an enforcement officer, was there?

Mr. BRAND of Georgia. No. And there was no smoke screen involved when a nun on the street to the left of and paralleling Pennsylvania Avenue was shot and killed by the arresting officer pursuing some colored men charged with violating the prohibition law.

Mr. KVALE. Will the gentleman yield?

Mr. BRAND of Georgia. I yield.

Mr. KVALE. And neither was there a smoke screen involved in the killing of the man yesterday, as stated in the morning papers.

Mr. BRAND of Georgia. No. There were three boys in a car when one of them was killed, and I suppose if the grand jury of the District of Columbia has anything to do about it the officer killing one of these boys will also be acquitted.

In this instance J. W. Kendrick, a 17-year-old student of Emory and Henry College, was shot during an auto chase. There were three students in the car. The officers say the boys did not stop when ordered, and claim that they shot at the tires of the auto in front of them. The two students who were in the car with the deceased said they did not hear any orders to stop, and that they did not have any whisky in the car, and claim that "they were going for a ride." Young Kendrick was shot through the back of the head, as Fleming was, from which he died. I suppose that if the officers of the District of Columbia have anything to do about it, that these officers will also be acquitted.

I am gratified to know that the statements of the law which I made when I became a party to the colloquy with the gentleman from Illinois [Mr. HOLADAY] are supported by the law of the land, as a comparison of what I said at the time referred to and the authorities I now cite will demonstrate.

In an Illinois case the court says:

An officer, generally, may use a deadly weapon, even to the extent of taking human life, if necessary to effect the arrest of a felon, for the reason that the safety of the public is endangered while such felon is at large; but the rule, by the great weight of authority both in this country and in England, is, that except in self-defense an officer may not use a deadly weapon, whether his purpose is to kill or merely to stop the other's flight.

It was held in an Arizona case—

Where an officer, in attempting to arrest a driver, shot at a tire to disable the automobile and killed the driver, even though the killing was unintentional, the act of shooting being unlawful, the officer committed the offense of involuntary manslaughter.

In Fifth Corpus Juris:

Most of the acts graded as misdemeanors have no element of moral turpitude, and are offenses simply because the public policy, through the law-making body, has so decreed. But even when the act is malum in se, and is graded as a misdemeanor, it is not thought to deserve death at the hands of an arresting officer simply because the offender seeks to avoid arrest by running away. When the offense is bad simply because prohibited, much less should the officer assume to take the offender's life if he disregards orders and fails to stop when commanded to do so, but keeps on going. But, whether such offenders are ever arrested or not, no peace officer has any right to shoot them because they do not halt when told to do so.

Without expressing any opinion as to the facts of this case, or the guilt or innocence of the accused, it is my firm conviction that an arresting officer who takes human life, except in self-

defense, without a warrant and having no personal knowledge of the deceased having committed an offense against the prohibition law, is guilty in the eyes of the law either of murder or voluntary or involuntary manslaughter.

Malice, either expressed or implied, is a necessary element of murder. However, when a homicide is proved, that is a killing of a human being, the law presumes malice, and unless the evidence on the trial of the case should relieve the slayer he should be found guilty of murder.

And that has been the rule of law since all commentators on the common law wrote their books.

When one uses a deadly weapon in a manner likely to produce death, and death ensues, the law presumes the person using such weapon intended to kill. This presumption does not obtain when death does not ensue. If this officer were on trial before a jury in this District, and the prosecuting attorney proves that he had a pistol and shot at or toward this boy recklessly and in disregard of human life and further proves that one of these shots produced a mortal wound causing death, the law presumes that the officer shot with intent to kill and therefore would be guilty of the offense of murder.

In the present case it is not denied that the policeman used a pistol, which is a deadly weapon, and fired it five times in the direction of the deceased, shooting at him when he was running away and with his back toward the policeman. The last shot took effect in the back of his head which produced instant death. At the time of this shooting the deceased was making no resistance to the officer in the meaning of the law. He was making no assault of any character upon the officer when the fatal shot was fired. Outside of the use of the smoke screen he committed no felony offense to the knowledge of the policeman. He had no warrant for his arrest, and so far as it appears no warrant had ever been issued against him. The policeman had no personal knowledge that he was an offender against the prohibition law and at the time he killed the deceased he did not know that he had any whisky in his car. And yet, notwithstanding all this, he shot like one shooting in the dark. At least he shot five times in a crowded street where people were on all sides and in front of the car.

Mr. HOLADAY. Mr. Speaker, will the gentleman yield?

Mr. BRAND of Georgia. Yes.

Mr. HOLADAY. I think the gentleman is considerably wrong in his statements there.

Mr. BRAND of Georgia. In what respect?

Mr. HOLADAY. The officer knew that he had liquor in the car.

Mr. BRAND of Georgia. How did he know it?

Mr. HOLADAY. There were 400 gallons piled there that he could see.

Mr. BRAND of Georgia. That he could see in the car?

Mr. HOLADAY. I should say 400 quarts. Yes; that he could see in the car.

Mr. BRAND of Georgia. Well, if he could have seen this whisky in the car, how, in the name of common sense, did the smoke-screen operation prevent him from seeing the boy in the car? If the smoke screen did not keep him from seeing the whisky, how did it keep him from seeing the boy? If he could have done so, what did he shoot and kill him for? Mr. HOLADAY must be mistaken about this, because the occupants of the car would not likely have been exposing so much whisky in such an open and conspicuous manner.

Mr. HOLADAY. Let us forget the liquor for a moment.

Mr. BRAND of Georgia. Oh, no; you must not forget that. This is a liquor case. [Applause and laughter.]

Mr. HOLADAY. I am willing to forget that for just a moment.

Mr. BRAND of Georgia. Very well, then, forget it.

Mr. HOLADAY. The man fleeing committed a felony. The law made it a felony. Fleeing from arrest, the man committed another felony. He assaulted the officer.

Mr. BRAND of Georgia. How?

Mr. HOLADAY. He used a smoke screen, and the following night the man who was with the police officer was assaulted again with a smoke screen, and he was wrecked and he was thrown off the railing of a bridge, and he hung there, 50 feet above the ground.

Mr. BRAND of Georgia. Oh, that is not material to this case at all. The gentleman from Illinois made a speech about this, and it was a good speech, and it was made in good faith, but it is strange that the cases he refers to all occur in or near the eleventh precinct. Why should these smoke-screen violators disturb eleventh precinct so much? It seems that all of the smoke-screen bootleggers have their habitat in and around the eleventh precinct.

Mr. HOLADAY. If the gentleman wants to know, I can tell him why that is.

The SPEAKER pro tempore (Mr. ACKERMAN). Does the gentleman yield?

Mr. BRAND of Georgia. If my time may be extended, I will. I have almost consumed my time.

Mr. HOLADAY. Mr. Speaker, will the gentleman yield?

Mr. BRAND of Georgia. I am sure that I can not get more time.

Mr. HOLADAY. I can give the gentleman information.

Mr. BRAND of Georgia. Is it information about the facts or about the law?

Mr. HOLADAY. About the facts. I would not assume to undertake to give the gentleman any information about the law.

Mr. BRAND of Georgia. Oh, the gentleman is a good lawyer. The point I made a while ago was that this policeman did not know that there was any whisky in that car until after he killed Fleming, and yet the gentleman says the policeman now claims that there were 400 quarts in the car and that he saw it prior to firing the fatal shot.

Mr. CLARKE of New York. Does the gentleman from Georgia believe that a man could go through the streets of Washington with 400 gallons of liquor in his car without the whole populace being after him? [Laughter.]

Mr. BRAND of Georgia. No. I do not disagree with the gentleman about that. Part of the populace would have trailed after the car, I am sure.

Mr. COX. Mr. Speaker, I take it that nobody is so ignorant of the law or so insensible to the dictates of humanity as to contend under the circumstances as detailed on the floor of this House that this policeman in this instance was armed with the legal right to take life. I assume that the policeman contends, and has all the while contended—

Mr. BRAND of Georgia. If the gentleman from Georgia will pardon me, I fear that he will take up too much of my time.

Mr. COX. I merely wanted to state the rule of law on this question, supporting the contention the gentleman has made.

Mr. BRAND of Georgia. I am trying to give the House what I think is the correct rule of law. I know that the gentleman from Georgia [Mr. Cox] is a good lawyer. I want to answer the question he propounded, namely, Does the gentleman think the policeman intended to kill the boy when he shot? That is not material, because, as the gentleman knows, the courts of his own State and my State have distinctly held that when one shoots into a crowd, not intending to kill any particular person but recklessly of human life, and kills one of the crowd, he is guilty of murder.

If these statements are the facts of the case, the policeman having used a deadly weapon and in a manner to produce death, and death having ensued, under the law of the ages such killing upon its face is murder.

The killing of an offender of the prohibition law under such circumstances, if declared to be justifiable homicide, or if approved by Congress as such, is establishing a dangerous doctrine, and in my opinion would result in fatal consequences, not only to arresting officers of this country but would prove to be a destructive blow to the prohibition laws of this Republic. This would be declaring, in effect, that an arresting officer himself has the authority to decide what he should do in endeavoring to arrest an offender against the prohibition law, and what force he should adopt in order to effect the arrest of an offender who is trying to escape. In other words, this would be putting the arresting officer in the attitude of judge, jury, and witness, and giving him, and him alone, the authority to decide the question of taking human life in order to make an arrest. The officer would thus not only become judge in passing upon the law of the case, but a jury passing upon the facts of the case, with the officer as such judge and jury passing upon the credibility of his own testimony. [Applause.]

This is a monstrous situation, and I hope that Congress will never for a minute be so unthoughtful and so inhuman as to condone or approve in any form such an unwise and vicious proposition. [Applause.]

Mr. COX. Mr. Speaker, will the gentleman yield there?

Mr. BRAND of Georgia. Yes.

Mr. COX. I agree with the gentleman in the main in his general statement of the law. But I think nobody would contend that the policeman in this case intended to kill the fugitive or that the killing was intentional.* He was firing at the car for the purpose of keeping the course clear in order to effectuate an arrest, not that he was pursuing him for the purpose of taking his life. Therefore would not the question of the guilt of the policeman turn upon the question whether death was the natural consequence of the act; that is, of firing at the wheels of the car for the purpose of stopping the car?

Mr. BRAND of Georgia. I did not yield to the gentleman for the purpose of permitting him to give his opinion of the law.

I have asked and obtained this time for the purpose of giving to Congress and the country my opinion of the law. [Applause.]

It would be far more advisable for Congress to enact a law making it a capital offense to manufacture, sell, or use a smoke screen, in which event if an officer is forced to kill one charged with a violation of the prohibition law in order to effect his arrest, which I think would be a calamity, such killing would then be justifiable homicide, but unless and until this is done, it would be a rape of the law and a flagrant miscarriage of justice to justify or excuse an officer for killing a prohibition violator in order to effect his arrest except, of course, when done in self-defense. [Applause.]

ANNOUNCEMENT

Mr. CLARKE of New York. Mr. Speaker, I would like to make an announcement if I may. I did not send out earlier the notice for the Republican conference to be held at 3 o'clock to-morrow afternoon because I did not get the notice until 5 o'clock last evening. I make this announcement in order that the Members will be informed of the situation.

LAW ENFORCEMENT

Mr. LAGUARDIA. Mr. Speaker, I now renew my request for unanimous consent to expunge from the RECORD, on page 612 of the RECORD of April 26, 1929, the word "Applause" following the words—

He fired five shots at the left rear wheel. Four of those shots hit the car within a radius of 8 inches and the fifth shot in line, from a vertical standpoint, but 2 or 3 feet higher than the other four shots, passed through the back of the car, struck the driver in the back of the head, and killed him.

Mr. CAREW. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

Mr. CAREW. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CAREW. Mr. Speaker, I would like to make a parliamentary inquiry. Is there any way by which objection can be made, to stand in the RECORD, to stand against the repeated requests that the gentleman from New York has made and which have been objected to several times to expunge this "Applause" from the RECORD?

Mr. LAGUARDIA. Perhaps if my friend from New York would attend every day he could object every day. [Laughter.]

Mr. CAREW. It is hardly worth while for the gentleman from New York to attend the sessions every day in order to hear the remarks of the gentleman from New York [Mr. LAGUARDIA]. That would be a sacrifice that would be altogether too great to be demanded. [Laughter.]

Mr. Speaker, may I renew my parliamentary inquiry if there is any way open to me to put into the RECORD an objection to that request that would stand? [Laughter.]

The SPEAKER. Of course, if the question be whether the Chair would continue to recognize the gentleman from New York [Mr. LAGUARDIA] to make that request, that would be entirely within the discretion of the Chair. The Chair has recognized him three different times for that purpose, and thinks he will not recognize him any more. [Applause.]

THE TARIFF BILL

Mr. HAWLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 2667) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes; and pending that motion, I ask unanimous consent that for the present the time be equally divided between the gentleman from Texas [Mr. GARNER] and myself.

The SPEAKER. The Chair will state the motion first. The gentleman from Oregon moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 2667. Pending the motion of the gentleman from Oregon, he asks unanimous consent that the time for general debate be divided between himself and the gentleman from Texas.

Mr. GARNER. Mr. Speaker, I do not intend to object; but I want to reserve the right to object for the purpose of asking a question. I do not presume the gentleman from Oregon can now state about how long general debate will run?

Mr. HAWLEY. I am not able to do it.

Mr. GARNER. I presume after your conference to-morrow afternoon you will be able to make a statement of the program with reference to this proposition.

Mr. HAWLEY. I suppose the majority leader will be able to make a statement. [Laughter.]

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER. The question is on the motion of the gentleman from Oregon that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 2667.

The motion was agreed to.

The SPEAKER. The gentleman from New York [Mr. SNELL] will kindly take the chair.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 2667, with Mr. SNELL in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of H. R. 2667, which the Clerk will report by title.

The Clerk read the title of the bill.

Mr. HAWLEY. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. The gentleman from Oregon asks unanimous consent that the first reading of the bill be dispensed with. Is there objection? [After a pause.] The Chair hears none. The gentleman from Oregon is recognized for one hour. [Applause.]

Mr. HAWLEY. Mr. Chairman and gentlemen of the committee, for a number of years the Members of the House have been in receipt of letters asking for modifications of the existing tariff act, and also a number of bills have been introduced from time to time and referred to the Ways and Means Committee asking that that committee report bills modifying certain schedules. It has not been thought advisable to attempt a piecemeal readjustment of an act as complicated as the tariff act, so that last year, when it appeared that there was, after a long discussion of the agricultural question, sufficient ground for many revisions of the agricultural schedule, and when after an industrial survey it was found there were many industries in the United States, worthy and deserving of recognition in a protective tariff to a greater degree than they now have, or where they have none in the present law, it was agreed there should be a readjustment of the tariff.

Both of the great political parties in their platforms made mention of that, and upon the reconvening of the Seventieth Congress your Ways and Means Committee as a committee resolved upon such readjustment of the various schedules in the tariff as the facts and evidence would warrant.

The country gave emphatic indorsement to this program by electing the candidate of the party that has always been the protectionist party to the Presidency by a great vote, and by electing an increased majority of the Republican Party in this House.

The entire membership of the Ways and Means Committee sat for some 45 days and heard witnesses from all parts of the country. Some 1,100 persons appeared in person and about 300 filed briefs but did not enter a personal appearance and 11,000 pages of testimony were taken. After the hearings were completed the Republican members of the committee, in accordance with time-honored custom, began the work of revising the schedules. Every Republican member was assigned as chairman of a subcommittee and given the particular responsibility for the initial preparation of a given schedule. Two others, who also had a schedule assigned to each of them, were associated with each such chairman. The subcommittees gave very careful attention to the work on the several schedules. Each subcommittee read with great care the hearings and the briefs on the schedules for which they were responsible. The Tariff Commission had representatives at the hearings who heard all the evidence and who afterwards carefully made an examination and analysis of the evidence and briefed it for the use of the subcommittees. We make acknowledgment of the very important and invaluable service rendered to us by the Tariff Commission in aiding us to obtain information and in solving many problems that were to be solved only by an investigation in the field and in some of the departments. We also received very great aid from the Departments of the Treasury, Agriculture, Justice, Commerce, and Labor, and from the officers who administer the customs. After the subcommittees, with all of this aid, had prepared tentative schedules, the 15 Republican members met to hear the report of the work of the subcommittees. The subcommittees were cross-examined with great diligence, not only once but twice and sometimes three times, so that not only were the subcommittees in charge of the schedules well informed of the facts concerning their schedules but they had to justify the rates they had proposed to the other Republican members.

We began on this basis: That there is a difference between competitive conditions in this country and abroad, and the read-

justments found in the bill are based upon that foundation—the differences in competitive conditions at home and abroad.

It was proposed by a few that the revisions be confined to the agricultural schedule. That would not have satisfied the Congress or the country, for the reason that we believe the equal protection of the law should be extended to everybody and every industry, no matter in what particular business engaged. For this reason all the schedules were examined. At the beginning it was estimated that probably 15 per cent of the items in the tariff would be modified. So far as it has been possible to ascertain by count and investigation some 15 or 20 per cent of the items on the list are modified. In some instances a paragraph is modified only in one or two items. It may have a great many items in it and only one or two be selected for modification because they were the only ones in that paragraph which would justify any change in the rates, according to the facts and information.

Mr. HULL of Tennessee. Will the gentleman yield?

Mr. HAWLEY. I would request that I be allowed to conclude my statement before answering questions.

Further, on that particular point, out of the 706 paragraphs in the schedules, 444 were not touched at all and 262 had modifications made in them; but some, as I have already stated, only in a very minor degree. However, the real test of the extent of the modifications is on the items, and, as I have already stated, only between 15 and 20 per cent of the items are affected. So we have called this a readjustment for the purpose of bringing protection to those industries which are not now sufficiently protected on a par, so far as their needs are concerned, with those industries that are sufficiently protected.

The tariff act of 1922, changing from a free-trade basis to a protection basis, has rendered this country most excellent service. It almost at once reestablished confidence. It promoted agriculture. It extended industry, and has proven a great boon to labor. It has created an era of unprecedented prosperity. The seven years that have elapsed since the act was passed have been the most fruitful in economic, industrial, business, and other developments in the history of the world. A very large number of new products, entirely new, have been made and put on the market. The rates in the present law are proving too low in a number of instances. New and important competitors have entered the field. Many products are being made in new forms which do not correspond to present descriptions in the tariff schedule.

The schedule on rayon is an illustration. In order to properly provide for this industry it was found necessary to include an entirely separate schedule and to provide duties in accordance with the particular needs of that industry.

In 444 of the paragraphs of the Fordney bill no reason has been found for modifying them whatever, in the remainder reason has been found for modifying some of them. The readjustments were granted only when the evidence submitted at the hearings and in the briefs, verified by the various official departments of the Government, and after careful investigations by the subcommittee and the 15 Republican members was sufficient to warrant the readjustment.

This meant long and tedious investigation in order to determine what the facts were, what the status of any industry was, and what were the conditions of competition from abroad with which it had to compete.

It has been frequently urged that there should be a parity in the ad valorem in the several schedules. It has been argued that the agricultural schedule had an ad valorem rate much below that of other schedules.

The statisticians of the Department of Agriculture at my request went into this at great length. Agriculture is entitled to a full measure of protection. It should be granted that protection on the basis of the merits of each case and not on the general theory that a certain percentage ad valorem was the proper solution of the problem.

In the case of agricultural products, including unmanufactured wool, unmanufactured tobacco, and sugar, and excluding fish, which is included in the agricultural schedule, the average rate of ad valorem protection on dutiable items in that schedule is 41.72 per cent. The average rate on all other schedules is 36.6 per cent; that is, the Fordney Act, the tariff of 1922, gave to agriculture a measure of protection. It may have been it was too low. We have assumed that it was in the bill we are reporting and have advanced the rate in accordance with the necessities of the cases, but the question is, Is there any virtue in saying that a certain ad valorem rate must be selected as the proper one for purposes of protection?

We have proceeded on the theory that that duty should be given which the facts warrant, no matter in what schedule it is. If a certain fixed ad valorem rate is the right theory, irrespective

of the actual rates necessary to provide proper protection as determined by the facts and conditions of competitor, then it would be necessary to modify every schedule, because in every schedule the ad valorem rates vary materially; and if the theory is sound, ad valorem should be adjusted between the items as well as the schedules by making them uniform.

So we adopted the plan of justifying our work by the facts and the conditions of the industry.

The question has been raised also as to the effectiveness of duties. This has a very important bearing upon any tariff law.

Duties are effective against imports in the amount of the declared values as verified by appraisals. We have a great deal of trouble in the customs in ascertaining what are the real values of imported goods from the standpoint of their foreign costs. As you may have heard, one great nation has excluded our commercial agencies from obtaining any information on this subject at all.

Other nations are looking askance at our inquiries, and some are declining to give us any information.

I think it can be safely said that the production costs of imported goods equals only about one-third of the American costs.

So that, from the standpoint of the American costs of production, although the duty against foreign imports is effective to the extent of their appraised value, it is only effective as to one-third of their production costs in this country. On the American product, the effectiveness of a duty varies with the market. It varies from season to season and sometimes from month to month. Every variation in the price of a commodity affects the effectiveness of the duty. We have had, in recent years, discussion concerning many products on which it is declared that, although the duty is substantial, it is not effective, due to market conditions.

We have determined the rates of duties to be put in this bill on the basis of an average of the experience of the country and of the industry—

Mr. LAGUARDIA. Which country—the country of origin or this country?

Mr. HAWLEY. Our country and the country of the origin of the imports.

Not taking any particular month, very seldom taking a particular year, but taking the experience of a period, we ascertained the average difference in competitive conditions with which our people have to compete, and on this basis justifying the rate we made by the facts, thoroughly tested, we determined the duties to be levied.

A duty expresses the point at which protection ceases. Let me state that again. A duty indicates the point at which protection ceases; that is, there is no protection above that point.

If the duty is 20 per cent and the competition would justify 30 per cent, the effectiveness of the duty ends at the 20 per cent. But duties may be at times entirely inoperative owing to domestic competition in some parts of the country and effective in other sections. The effectiveness of any duty depends upon the domestic markets.

It has been frequently asserted that the duty adds to the price of a commodity in this country, and generally it is said that the duty is added to the price of domestic products to the full amount of the duty.

In order to determine what change in price is made by duty it is necessary to study the market conditions surrounding every transaction affecting the particular commodity. It varies from time to time, and we believe—and there are scores of instances justifying such conclusions—that the most effective method of advancement of industrial development and the stability of prices, and the employment of labor, is domestic competition rather than foreign competition. [Applause.]

Our foreign trade amounts to about \$9,000,000,000 a year and our domestic transactions to about \$90,000,000,000 a year—ten times as much as our foreign trade. You can cite the cases of aluminum, tin, and various other articles where we established the industry by a protective duty, and where to-day our people get a better quality of those wares at a lower price than in any place in the world.

Moreover, we have considered that the tariff is a domestic question. This country adopted the principle of protection as a general policy under President Washington. Various parties subsequently adhered more or less to that principle, but the Republican Party since 1860 has continually adhered to that principle. The result has been that we have built up the greatest country on earth from \$16,000,000,000 of wealth and 31,000,000 people in 1860 to three hundred and more billions of dollars of wealth, multiplying the wealth twenty times, and 120,000,000 people, multiplying the population four times, and presented to the world the spectacle of a country richer, living on a higher standard, with more employment for labor, better markets for products, than anywhere else in this world. [Applause.] That is

because we have said that we are able to manage our own domestic affairs. [Applause.]

We have no intention of excluding foreign nations from our doors. Listen to these particular facts: Under the act of 1922 our foreign trade has doubled, and has been doubled for some time. We imported in 1927, for instance, \$4,163,000,000 worth of goods. Of these, \$1,483,000,000 came in paying duty, and over \$2,680,000,000 came in duty free. Only 36 per cent in value of imported articles paid duty and 64 per cent entered duty free. On the dutiable goods we collected not quite 39 per cent ad valorem in duties. The average ad valorem on the total of dutiable and duty-free goods was less than 15 per cent.

That is not excluding nations from our trade. Fifteen per cent is a moderate amount to be paid for the privilege of trading in the richest markets on earth, which they did nothing to establish. They can have their suits tried in our courts if necessary. Their business is protected by our laws. They have an opportunity of free movement for themselves and their goods, wherever they wish them to go when properly imported. They are not restrained by police regulations or any other restrictions on trade, except those which apply to Americans as well, that the goods must be sound and wholesome if they are food products, and not sold under restraint of trade and other salutary regulations for common decency in business.

Now, to ask them to pay on the total imports only 15 per cent of the value they have declared, which is based not on any basis of valuation of this country but on the value they themselves have declared seems to me to grant to foreign nations wishing to trade with us the privilege of trading on very liberal conditions. [Applause.]

We have not erected any barrier against any country for punitive purposes because we do not like them or because we have had any disagreement with them.

There is nowhere in this act or any former act a discrimination against any country, unless that country began discrimination against our trade. We simply desire to be treated as well as they treated any other nation, or as we treat them.

Before I pass on to a discussion of the schedules, I desire to speak on four matters in the administrative provisions. The administrative provisions have been very thoroughly revised. We call it a readjustment of schedules, because it is a readjustment, but it is a revision of the administrative features. Many of those features were adopted years ago, when the conditions of doing business and the conditions of foreign trade were entirely different from those that exist to-day. At our request the Treasury Department, the Tariff Commission, the Department of Justice, the Customs Service, including the Customs Court, made a very careful study of the administrative features, and worked on them for months. A very large amount of litigation has arisen, and is continually arising under some of the provisions. A small change in certain phraseology, which has led to the lawsuits and the disputes, would cure that condition. We endeavored to find out what the language necessary to avoid a multiplicity of suits is. They have answered that question for us in this draft that we present you to-day. In both the readjustment of the schedules and the revisions of the administrative features, we made no critical examination of paragraphs under which no proposal of change was made. If a proposal was not made to change a paragraph, it was presumed that those who benefited by it were satisfied or else they would suggest some change. If those who operated under it on the other side, the importers, the foreign agents, made no suggestions, it was presumed that they were satisfied. So, in the paragraphs in which no changes are made, both in the schedules and in the administrative provisions, it was agreed by common consent that they were operating satisfactorily to all parties in interest.

The first change of importance that we made in the administrative features—and I am not saying that the others are not important, but merely speaking of this as more important—is in the so-called flexible provisions. We found, as all the country has found also, that it took a very long time to arrive at a conclusion under the present law—from four to five years in some cases—and by the time the conclusion was reached its value was much depreciated, except as an historic incident. Our intention has been to enlarge the power of the Tariff Commission, to give them greater scope of authority, to untie their hands, by allowing them to use other means to determine the differences in competitive conditions at home and abroad other than they are now permitted to use and to hasten the date when they must report. At first it was thought to be proper to fix the date within four or five months within which the commission must report, but that was deemed inadvisable upon further inquiry, but we expect that the newly created commission will report very promptly under the investigations it makes under the new paragraph.

We have re-created the Tariff Commission. The present commission goes out of existence. Its members will continue until they are supplanted by reappointments of the President, and they may be reappointed. There is no restriction on their reappointment, except to the extent that the President is given a free hand to select the men whom he thinks will best serve the country on this commission. We have changed their term of office from six to seven years and have increased their salaries from \$9,000 to \$12,000. We have increased the number of the commission from six to seven. It seemed inadvisable that there should be a commission which by deadlock could not function. Any commission created to serve the public, any body created to serve the public, ought to be able to function by its majority, which must, of course, assume the responsibility for the action taken. It is a universal principle in government that a majority should act and assume the responsibility of its action, and a commission that can not function because of deadlock can not be of the greatest public service.

The provisions for the enlargement of the powers of the commission are set forth in our report in full; and on that report let me say that we have presented a complete picture of the work of the committee. There is, first, the preliminary statement, as usual. Then each subcommittee under its own name has reported on its particular schedule, and following the report by each subcommittee is a print of that schedule under the Ramseyer rule, the old law with the matter to be omitted marked in black brackets and the new language in italics, so that anyone reading the report of the subcommittee has an index to the schedule, and on examining the schedule can at once see the reason for the changes that have been made in that schedule. It is our purpose to present to the House and to the committee a complete picture at once understandable of all the changes that we propose, and under the agreement just adopted not long ago on this floor there will be available in the document room by Saturday morning reprints of it in larger type for the convenience of the Members.

In the case of the appraisal of merchandise considerable difficulty was found by the Government and the Customs Service in determining finally what the appraised value of merchandise should be. It is of interest both to the Government and the importer that the appraisals be promptly made and the duties be liquidated. The importer desires to sell his merchandise and get it out of his hands. We provide that under certain provisions detailed in the bill the finding of the appraiser as to the basis of value shall be final and conclusive as a *prima facie* case, and that from that finding appeal may be taken to the Secretary of the Treasury, and his decision shall be final and conclusive likewise as to the basis of value. These appraisal cases arise in great numbers, dragging their weary way through the courts, clogging the business of the Government, when all that is necessary is for some one to say what the basis shall be. We have sought to remedy the condition by making these provisions.

It was proposed that we limit the amount of commodities that could be imported from the Philippines, especially, and others of our possessions, either in quantity or value. The committee rejected such proposals, and our possessions have the right of free trade with the United States under this bill in the same measure as they have had it in the past. [Applause.] In other words, they are still a part of the United States in every respect, in trade and otherwise.

The fourth item to which I wish to direct special attention is the subject of valuations. I have already called attention to the difficulties we find in dealing with foreign countries in attempting to ascertain costs of production there. One great country has forbidden our agents from making investigations. Others make it very difficult. Of course, we have no authority, no right to demand that that right be given. We can not of our own right say to them, "We must examine your books." It is a matter of the comity of nations, and that permission they are becoming unwilling longer to extend.

We have considerable difficulty in the matter of valuation of imports, undervaluations, or where imports come in from the same country, for instance, from the same seller to different buyers in this country at different invoice values. One may be a better buyer than another or may buy in larger quantities and get a reduction in the price, and he imports at one price, and a less successful buyer imports at another price.

There are a great many other difficulties. We are proposing that the President of the United States make an investigation of all the proposed methods of valuation in this country to determine their practicability by a scientific investigation and to report to Congress on the several plans of valuation that may be administrable, if possible, in this country for the subsequent action of Congress.

Speaking for myself only, having had experience in the preparation of two tariff bills and knowing the difficulties we have

labored under generally in any attempt to find out what the foreign costs were, I believe we shall come in a short time to some form of valuation in the United States as the only solution of the problem of dutiable values. [Applause.] It will be fair to foreign countries, for now if goods come in from Czechoslovakia at a very low rate and come in from the English possessions at a much higher rate, although serving the same purposes, and possibly selling at the same prices in this country, the English producer or seller pays a much higher duty than Czechoslovakia, and thus we are giving an advantage to the nation of the lower wage scale or lower standard of living.

The foreign wages average only about 40 per cent of the American wages, and in some countries they do not equal 10 per cent of our wages in certain lines of industry. Abroad much production arises from home work at almost no cost of production, being done by women and children for which they receive no wage but only get their living in the family. It is impossible to distinguish between goods brought in so made and goods made otherwise. Such goods might also be remanufactured before reaching our shores. The only way to readjust that fairly to all our foreign neighbors is to adjust the duties on the basis of some administrable form of American value, so that they will all pay the same amount of duty. [Applause.]

Now, I wish to comment briefly upon the schedules. We have in our report set out very extensively the changes made. In the chemical schedule, out of 93 paragraphs, only 39 changes were made. Thirty-three were increases and six were decreases. That schedule contains hundreds of items. The duties on 33 commodities were raised and on 6 were lowered. In all the schedules you will find that we have added a large number of products that have heretofore been concealed in basket clauses or are new products.

If an article is imported under the basket clause, no separate account of it is made by the customs, and in order to get information as to the imports in quantity or price it is necessary to go to the ports of entry and examine all the invoice sheets on such items. We have found it very difficult many times to ascertain the proper duty to be assessed upon any import, because the item was in a basket clause and the data regarding such imports were not separately reported. In this bill we have increased the number of items by name by several hundreds, in order that they may be separately reported in the customs and we may have report in complete detail of the amount imported, the value, the rate of duty, the duty collected, and the ad valorem of that duty.

In the second schedule, on earthenware, changes have been made to meet the necessities of certain lines of products. A careful examination of these schedules will indicate that the changes made generally are few in number as compared with the total items in the schedule and that the amount of the change is not large. Examining the bill not long ago, I was surprised at the number of times the change of 5 per cent only occurred—from 25 to 30 per cent, or from 35 to 40, or from 15 to 20 per cent—where the industry needed a slight addition to its protection to prevent its being so greatly embarrassed that it could not proceed. We have found in our investigations a considerable number of industries which are going on because it is less expensive to continue operating at a loss than it is to close up the industry.

They have continued operating, hoping for relief. If they close up their industry they lose their organization; they lose their trained labor; they lose their markets; and they lose all the value of their advertising, and if they ever resume they have to repeat their advertising, regain their markets, reassemble their labor, and rehabilitate their plants. These industries are in the red, but with the changes we propose they will at least be put back on a competitive basis; their labor will continue to be employed; we will have the benefit of their products and the competition they afford. We will also have the benefit of the increased wealth of our country by their total of manufactures.

In the metal schedule and in the earthen schedule, the question of building materials arises. There is no change on pig iron over that proposed by the President. We have adopted the presidential rates in practically every instance. If the flexible tariff provision is sound and its findings are to become the law of the country, after long investigations have been made on the products affected, we came to the conclusion they should be adopted after we had examined them. We were satisfied they represented the right rates. We did not accept any presidential rate that I remember without reinvestigation. We are your agents and you asked us to be certain before we made any change that the change was justified upon investigations made by ourselves.

On common brick we have put a duty of \$1.25 per thousand. That affects only the manufacturers in the Hudson River terri-

tory. It will not affect the rest of the United States, because the local competition in the brickyards in every other section of the United States will determine the price at which the bricks will be sold in that locality. But bricks were coming into this territory as ballast and avoiding the question of dumping by a narrow margin. They were coming in at a low transportation rate and were underselling the American brick, when they were being manufactured and sold on a proper basis of profit. The price in that section has been reduced several dollars in a short time by these importations of brick.

Cement has been given a duty of 8 cents per 100 pounds, which is equal to 30.4 cents per barrel. The same remarks apply to that as apply to brick. It is a problem involving only the Atlantic coast, extending from Boston, excluding New York, down along the southeastern coast of the United States. It is a coast problem. It will affect in both instances coast products, and, if it raises the price at all, it will raise it only in the coastal sections of the country, because the cost of transportation to the interior would prohibit the foreign brick from moving very far.

In iron and steel there is practically no change as to building materials, except where duties have been imposed upon certain alloys used in hardening and toughening. Steel sheathing for piling has been given a small added rate. In the metal schedule I think the most important change was in the watch and clock paragraphs. These paragraphs were adopted years ago, and the Customs Service have not been able recently to make them work satisfactorily. The descriptions are ancient; the basis for the collection of the duties is antiquated. The whole watch production has changed its nature and its method of manufacture, so that these paragraphs have been entirely rewritten and revised. The duties have been materially changed because the American manufacturer was not able to compete with the manufactures coming in from abroad, especially from countries whose wages are only a small fraction of ours.

The wage cost of a commodity, from the time it begins as a raw product until it ends in the finished material, is the greater portion of its cost of production and usually of its selling price. In any complicated manufacture, as is the case of watches, the labor cost is the very large proportion, 75 or 80 per cent, possibly more in some of the finer watches, of the entire cost of production. Suppose a watch costs \$100 abroad. The wage cost here would be three or four times as great as such cost abroad. That gives the foreign manufacturer an advantage against which our own people can not compete. That would apply to any number of products.

In the case of wood and its manufactures, we have made these changes: Lumber from pine, fir, hemlock, and spruce, the four great lumber-producing materials, are on the free list. Logs have a duty of \$1 per 1,000 feet board measure, but the importation of logs is insignificant as compared with the total production of lumber. Iron and steel building materials and lumber are practically unchanged, except as elsewhere stated in regard to lumber.

There is a duty of 25 per cent on imports of cedar and shingles because of strong and long-continued competition between the mills of British Columbia and the Northwest. Cedar lumber comprises but a very small percentage of the lumber manufactured in this country. It grows in the woods in connection with other trees but not in great quantities. There are certain localities where there may be forests of cedar, but that is not true generally, because cedar is found along the little streams or at the headwaters of small streams, and it is like the tulip tree or yellow pine in that it likes the damp places where the springs are.

Shingles have been given a rate of 25 per cent ad valorem. Maple and birch, of interest to the old Northwest, around the Great Lakes and to the West, have been given a duty of 15 per cent. There has been but little increase as to other wood and manufactures of wood.

In sugar, the duty on 96° sugar has been fixed at 3 cents as compared with \$2.20 at present against all the world.

The duty against Cuba for 96° sugar, which is that commonly referred to when we speak of the sugar schedule, will be \$2.40 as against \$1.76 in the present law. The greater proportion of our sugar that pays duty comes from Cuba, and this will make an increase of 64 cents per 100 pounds.

The experts before the committee, including Doctor Bates, of the Bureau of Standards, who, I think, probably knows more about sugar than anybody else in the country, made the statement that when the American sugar is on the market we get our sugar cheaper than any other time. When the American sugar is available for the people to buy, they pay less for sugar than they do when American sugar is not on the market.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

Mr. TILSON. Mr. Chairman, I ask unanimous consent that the gentleman may conclude his remarks. [Applause.]

The CHAIRMAN. The gentleman from Connecticut asks unanimous consent that the gentleman from Oregon may have sufficient time within which to conclude his remarks. Is there objection?

There was no objection.

Mr. HAWLEY. I appreciate the courtesy.

Cane sugar comes from cane grown in Louisiana and beet sugar is grown in some 10 or 12 States. It is a crop that takes the place of the great crops of which we grow a surplus. If we could find enough crops to take the place of corn and wheat and other products that are grown to an excess, we would go a long way toward solving the agricultural problem.

What the farmer in this country needs is not an opportunity to borrow more of other people's money or to make some arrangement by which he can continue for a while on a certain basis and then have a heavy burden to bear when the day of settlement finally comes, but what he really needs is an opportunity to sell his products at a remunerative price and have some money of his own. [Applause.]

In this bill we have had this thought in mind. All through it, wherever it is possible to encourage a substitute crop, like soy beans, beets, fruits, vegetables of all kinds, and many other products which I will not take the time now to mention, we have done so. These crops are money crops and bring the farmer money, and instead of putting his land into crops of which there is now an excess production, he relieves that excess production to the benefit of the farmers who still remain producing the great crops of corn and wheat. It seems to me this is a wise and sound economic policy for the country to pursue.

We raised the duty on sugar because we think the growers of it in the several States need this advantage to equalize the difference in competitive conditions, and since the American public can buy the domestic sugar cheaper than they can the imported sugar, it will be for the good of our people if we raise more of our own sugar. [Applause.]

I am not attempting to comment on every schedule and on every item. It would take too long and would not serve, I think, the purpose which at this time should be served.

There is no change in the tobacco schedule.

In the agricultural schedule there are probably more changes than in any other schedule. These are divided into several classes.

First come the meats. There is no increase in duty on cattle on the hoof. An animal weighing 1,050 pounds will come in at a duty of \$15.75 as in the present law. An animal weighing 1 pound over that will pay \$21.02 and 2 cents a pound for each additional pound that the animal weighs.

About 450,000 cattle come into the United States every year as compared with the millions that are slaughtered.

According to figures furnished us by the Tariff Commission, the cost of growing range cattle in the principal range sections of Canada is very nearly the cost of our own producers. In some instances they proved a little higher and in some instances somewhat lower, but the present rates offset the differences in competitive conditions, and, consequently, we made no change on cattle on the hoof.

But when we come to beef—that is, meats—comparing the prices at which our principal competitors sell their meats with that at which we can sell our meats, we found that the duty should be changed from 3 cents to 6 cents per pound.

Beef is the basic meat of our consumption, and around the duty on beef we have based the changes on all other meat products.

Mr. HUDSPETH. Will the gentleman yield there? I would like to ask the gentleman relative to the cost of producing cattle in Mexico. We have quite a few cattle imported from Mexico and I would like to ask the gentleman, inasmuch as he has stated the relative cost with respect to Canada, what is the relative cost of producing cattle in Mexico and in this country?

Mr. HAWLEY. We found not many cattle were coming in from Mexico. The herds have been greatly depleted by the revolutions.

Mr. HUDSPETH. That is true.

Mr. HAWLEY. And there was no problem that the Tariff Commission could find at this time. There was no immediate problem and we had no definite information upon which we could make any assessment of duty, but we are re-creating the Tariff Commission. The flexible provisions of the bill are made more efficient and more prompt. There are some instances where there may, in the near future, be need for a change in rates of duties. Under these provisions you can get an addi-

tional 50 per cent; if necessity arises, in the matter of cattle imported from Mexico, which I think would cover any probable difference in the cost of production in the two countries.

We made a change in the duty on sheep and goats from \$2 to \$3 per head, and on mutton and veal from 2½ cents to 5 cents a pound. When we established the beef rate as a basic rate, in adjusting the rates on other meats we considered the cost of production and competitive conditions in respect of every other kind of meat, so that we did not give the meat of sheep and goats 6 cents a pound, but 5 cents a pound; the comparative conditions justified 6 cents for beef and only 5 cents for mutton.

But lambs are more expensive to raise for the length of time they live, and we gave lambs 7 cents a pound. The rate on pork is made comparable with that on other meats—we are on an export basis and these duties will probably be active only in extreme instances. The other meats are based on their values as compared with those on beef. We raised the duties on poultry, live and dressed, on the same basis.

When we came to dairy products we accepted the President's decision providing 12 cents a pound on butter. That is the basic dairy product and all other rates in this paragraph relating to dairy products are based on the duty on butter—4 pounds of butter in a gallon of cream—48 cents for cream and other duties on the same basis. If the duty of 12 cents a pound on butter is right, the other duties are properly adjusted.

The fish paragraphs are entirely rewritten and accord with the modern practice and commercial conditions. No special changes are made in rates of duty, which are advanced only in a few instances. The new product of fillets is being developed and shipped all over the country. In this schedule, as in others, we have named the products specifically, in order that they may be listed in the customs reports.

The hen and the cow are most important possessions of the farmers. Together they brought in last year \$1 out of every \$4 of the farmer's gross income. These industries have been expanded. They needed these changes. Here is a farm relief in active operation doing its work. What is the wise thing to do? Why, to foster it. That is what we have done in behalf of the dairy and the poultry products.

We have increased the duty on nuts and vegetables as substitute crops. Instead of confining themselves to the production of a few great crops our farmers ought to be raising crops in great variety; not sell at one season of the year, as they do their grain, in tremendous quantities throwing on the market at one time millions of bushels, but enable them to dispose of products at all times of the year as the market demands. If we can relieve the basic crops and develop more diversity in agriculture by the use of the tariff we will be rendering the most aid to agriculture, in my judgment, that it is possible to render. [Applause.]

The Southern States from Florida to Texas are endeavoring to reach the market with their winter and spring vegetables. They have the climate, they have the labor, they have the soil; but they have very vigorous competitors. Mexico against Texas with Mexico scheduled to win without due protection of the domestic supply. Florida and other Southern States against Mexico and the isles of the Caribbean Sea. We have increased the duty on green beans from one-half cent to 3½ cents a pound, and the duty on green peas from 1 cent to 2 cents a pound. On cucumbers, squash, eggplant, and various other commodities of that kind we have very materially increased the duty. So that practically all the winter and spring vegetables sold in our markets can be produced in the United States in the course of time. Why should they not be so produced? [Applause.]

We gave some of the highest increases in duty to these commodities. The increase from one-half cent per pound on green beans to 3½ cents is an increase of 600 per cent. We believe it is justifiable, in order to give this part of the United States an equal opportunity in the markets of the country.

The next announcement I make with some hesitancy. There is no change in duties on wines, spirits, and other beverages.

The changes in the cotton, silk, and rayon schedules are based generally upon the fineness of the yarns used.

In the case of cotton yarns the rate is increased from one-fourth of a per cent ad valorem to three-tenths of a per cent for each additional count; and in cotton cloth from one-fourth to thirty-five one-hundredths of a per cent ad valorem for each additional count, reaching a maximum rate at the count of 90 instead of 80. This is an increase of about 7 per cent on the yarn and on the countable cloth about 10 or 11 per cent.

The cotton industry in this country is not in sound condition, speaking generally. New England has felt the distress more than any other section, although we had some statements from the South saying that they, too, are feeling the distress. Our competitors abroad have an uncanny ability to pick out commodities in this country that have not sufficient protection,

and to attack them. They find the places in the tariff that are most vulnerable and they drive through, and in the case of many specialties in the cotton schedule the attack on them from foreign sources has been very severe and successful. After a careful study we are confident that the increases that we have granted are fair and will be effective.

In rayon and silk much the same condition prevails. I have already stated that rayon has been given a separate schedule of its own. More particular information upon the individual schedules will be furnished by the chairmen of the various subcommittees and their associates when they take the floor. If any person wishes to inquire more particularly into any item, he will be able to get the information at that time. As chairman of the committee I told these gentlemen that when their schedule was being examined they would carry the ball. We have endeavored to do teamwork on these schedules in order that every man might have an active part in their preparation and be prepared to render the country and the House an individual service.

In Schedule 10, there is a change in the duty on flax to promote an American industry, and some changes in other items, not large in extent, mostly compensatory in character.

The wool schedule has been changed to this extent: The wool-growers asked for rates as high as 46 cents per pound on the clean content of wool. After long investigation and special reports from the Tariff Commission we concluded to advance the rate on clean content of wool from 31 cents to 34 cents a pound. According to the Tariff Commission, under certain conditions of competition, 38 cents would be justifiable as to certain foreign competitors, but, taking the average of several years, the competitive conditions, in our opinion, justify a duty of 34 cents per pound. Having decided that, we revised the compensatory duties, which in this schedule are the specific duties, on the basis of the ratio of 34 to 31. The ad valorem duties in this schedule are the protective rates. We increased those in very few instances—in the case of some finer cloths or of specialties. While this schedule appears to be materially advanced, yet if you eliminate that increase of 3 cents on the clean content of wool you will have, as I remember, only some six or seven changes of rate.

Mr. BURTNESS. Mr. Chairman, will the gentleman yield?

Mr. HAWLEY. Yes.

Mr. BURTNESS. Will the gentleman explain the reduction in some of the raw wool, so that we can understand what that is, before he passes from that schedule?

Mr. HAWLEY. What paragraph?

Mr. BURTNESS. As I understand it, there are some wools that are reduced from 31 cents down to 24 cents.

Mr. HAWLEY. Those wools are not produced in this country.

Mr. RAMSEYER. They constitute only about 1½ per cent of the production in this country.

Mr. HAWLEY. The gentleman from Iowa says that they constitute only 1½ per cent of American production, so that they are practically not produced in this country.

I have already spoken of silk and rayon. Next we come to papers and books. There is practically no change there.

The last schedule is sundries, containing items of great variety, heterogeneous in character, unrelated in kind. Every one is a different problem. They are not like the schedules where the paragraphs are built one upon the other. One of the chief changes is in women's wool hats, which come in from Italy in millions. We changed the rate of duty on them to give the American manufacturer a fair opportunity in the American market.

The free list has been added to and subtracted from, and a statement of the changes is given in the report of the subcommittee, of which Mr. ALDRICH is the chairman.

Occasionally, some one refers to the consumers as if they were a class apart from the rest of the people of the United States. Every person is a consumer in the United States and every person who renders any useful service or produces any commodity or serves his fellows in any capacity is a producer. Only the idle or those engaged in activities contrary to the general welfare are consumers only. We all enjoy the American standard of living which has been created and is maintained by the protective tariff. Our prosperity is greatest, our general welfare the most soundly established, and our progress most assured only when all of our industries are busy, all our producers profitably engaged, and all our wage earners receiving steady and remunerative employment. The pending bill proposes to relieve those against whom foreign competition is specially and effectively directed. In their restored prosperity we all will share; we are all consumers and producers and the solidarity of our interest is indivisible.

Before I answer any questions that may be asked I desire to make one concluding statement. We have endeavored to carry

out your will, gentlemen. We are your agents, your specially deputed representatives, to perform a certain task. We have done this work seriously. It involves the fortunes more or less of 120,000,000 people. We have 27,000,000 people in this country who derive their living by being on the pay roll of some other person or corporation. If the person or corporation for whom they work are not prosperous, they lose their employment.

If these workers are not employed, the farmer loses his greatest market. You can not attack one part of the tariff structure and weaken it without injuring every other part. [Applause.] So we have endeavored in this readjustment to hold an even balance between all of the industries of the United States; and I refer to agriculture as an industry, because if there are any people who work, it is the farmers. We have endeavored to hold an even balance between all the industries of the United States, not on the theory that an ad valorem rate of a certain amount would solve the problems, but that whatever rate was necessary for their protection should be written, based upon the information that we have. We have endeavored to treat them on the same basis. [Applause.] We commend this bill to you for your careful consideration.

Mr. HULL of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. HAWLEY. The members of the committee and of the subcommittees are willing at all times to explain the facts and figures on which we based our action. We were a jury, in a way, hearing the evidence and deciding the cause for the people of the United States severally and jointly on the basis of the facts presented.

Now I yield to the gentleman from Tennessee.

Mr. HULL of Tennessee. The gentleman was speaking of holding the balance between the industries here and abroad.

Mr. HAWLEY. The balance between the industries in the United States, not to give one an advantage over another.

Mr. HULL of Tennessee. I misunderstood the gentleman. I was going to ask him about the large number of rates we have here in which we have large exports and no imports in which there are high rates. For instance, safety-razor blades. The rate is 175 per cent. There are \$8,000,000 or \$10,000,000 of exports and a very small amount of imports.

Mr. HAWLEY. It might be that the exports were large and the production large, but it might be that the competition is directed to a portion of the industry against which all the imports that come in compete.

Mr. BACHARACH. Mr. Chairman, will the gentleman yield?

Mr. HAWLEY. Yes.

Mr. BACHARACH. I want to say that we did decrease the rates on razor blades.

Mr. HULL of Tennessee. How much did you decrease them?

Mr. BACHARACH. I do not have them at hand, but I can give you them later.

Mr. HULL of Tennessee. There are many hundreds of high and substantial rates in the present law with large exports, and where the imports are few or nothing. Is it the policy of the committee to make that a permanent part of the structure of the tariff law to that extent?

Mr. HAWLEY. The gentleman will find, I think, that wherever these rates exist a severe attack is being made on some branch of an American industry. It may not be the whole industry, but only a few of its subdivisions, for instance those producing specialties. But the entire imports may be directed against those particular items, which might be small as compared with the production as a whole and of the exports and imports as a whole. The amount may not be large, but it may involve the existence of the industry engaged in making the particular items.

Mr. HULL of Tennessee. Take for illustration, tin plate, \$22 a ton, in the sale of which I understand there is an international agreement. What would that amount to when they operate in violation of our antitrust law by their international agreement?

Mr. HAWLEY. I can only say that the tariff is placed in order to continue the industry in this country, which is the cheapest producer of that commodity in the world. [Applause.]

Mr. HULL of Tennessee. I believe we have a rate of 33 per cent on paints, with many millions of exports, and only two or three millions of imports. What was the policy of the committee in that case? That is just one of several hundred instances that might be mentioned in that category. I do not want to take up the gentleman's time unduly.

Mr. HAWLEY. I think the statement I previously made would apply to that particular commodity.

Mr. HULL of Tennessee. What I was trying to get at is whether the policy of the committee was to take the Mc-

Cumber-Fordney structure of 1922, and no matter how high those rates are leave them as a part of our permanent tariff policy.

Mr. HAWLEY. Wherever we found that people operating under any paragraph or item on both sides; that is, both the American and their foreign competitors, found no complaint, it was held as evidence that that particular paragraph or item was serving its purpose.

Mr. HULL of Tennessee. Will the gentleman state, then, what standard or formula was adopted for fixing the rates?

Mr. HAWLEY. Wherever the evidence indicates and our information proves that American industry was suffering from a competitive condition to its disadvantage in competition with the foreign producer or with foreign imports, we adjusted that rate to meet the competitive conditions.

Mr. HULL of Tennessee. The gentleman has just stated that the practice of the committee was to follow four or five other methods in ascertaining the standard of measure under the flexible clause, because you could not ascertain the foreign production costs. It is not contended that the new rates were based on the difference between the foreign and domestic costs?

Mr. HAWLEY. If foreign costs were not available, we had the invoices and the prices at which the commodities were sold. We had reports from the foreign trade journals which are available in this country. Prices can be obtained by cable when necessary. We had a number of sources of information. Our hands were not tied like the hands of the Tariff Commission under the existing law. We availed ourselves of the entire field for means of information.

Mr. HULL of Tennessee. It has been announced by some for some 20 years that the true standard of tariff measurement is the difference between foreign and domestic costs. Now, it is not pretended that the present act of 1922 was based on that formula, because nobody was able to get those costs. I was trying to ascertain what the standard of measurement or the formula for tariff measurement was from the statements the gentleman has just made.

Mr. HAWLEY. The foreign production costs, wherever available, and where not available, for any reason, the prices stated in the invoices, because prices stated in the invoices are certainly the prices at which the foreigner is willing to sell—and usually they include the foreign manufacturer's profits—the price at which such articles are sold abroad, especially the prices quoted in foreign trade journals and prices quoted to American dealers in these commodities. All of those things were considered, and there were a number of other sources of information.

Mr. HULL of Tennessee. Will the gentleman state about how many rates are raised and how many rates are reduced under this revision?

Mr. HAWLEY. As nearly as I can tell, without going through the list and examining the basket clauses in detail, 15 or 20 per cent of the protective rates are raised.

Mr. HULL of Tennessee. I mean, out of, say, 1,000—if that would be an accurate estimate of the number of changes—about what proportion are increases and what proportion are decreases?

Mr. HAWLEY. Most of the changes are increases. The decreases are not numerous.

Mr. HULL of Tennessee. The gentleman can not give an approximate estimate of the number?

Mr. HAWLEY. No; I can not; but the number of reductions are not numerous.

Mr. BACHARACH. Will the gentleman yield?

Mr. HAWLEY. I yield.

Mr. BACHARACH. I would like to call the attention of the gentleman from Tennessee to the fact that razor blades come into this country for the most part in strips, and your committee cut the rate from 1 cent each to a half cent, and it is so carried in the bill, paragraph 358.

Mr. HULL of Tennessee. Then it is as prohibitive now as it was before?

Mr. BACHARACH. I would not say quite so prohibitive.

Mr. GARNER. May I make a statement in connection with razor blades?

Mr. HAWLEY. Certainly.

Mr. GARNER. The gentleman from New Jersey has not given the picture of it. Razor blades coming into this country in strips pay now, but razor blades coming into this country in strips without being sharpened do not pay a duty, and that is what you are trying to raise in this bill. The gentleman knows that the testimony before the committee was that they were coming in as fabricated steel and were not paying a duty and the intention now is to put the duty up where it is above 300 per cent.

Mr. BACHARACH. I think the gentleman is in error. If he will refer to paragraph 358, he will find there is a decision and that it was claimed they were trying to get these strips in.

Mr. GARNER. How much duty do they pay on fabricated steel at the present time?

Mr. BACHARACH. On thin steel?

Mr. GARNER. On fabricated steel.

Mr. BACHARACH. Well, I would not know exactly what they pay, but they do come in under paragraph 358, which calls for 1 cent, and a cut has been made so that they will come in for one-half cent.

Mr. HAWLEY. I am just informed that the customs court has decided that they had to pay 1 cent under the present law.

Mr. GARNER. But they had not decided that when the hearings were held.

Mr. BACHARACH. I will say that at the present time razor blades come in at 1 cent each, whether they come in in strips or in packages, and we did reduce it as to strips to a half cent, despite the fact that over 69,000,000 razor blades came into this country last year.

Mr. McKEOWN. Will the gentleman yield?

Mr. HAWLEY. Yes.

Mr. McKEOWN. You have made an important innovation in this bill. In the preamble you add the words "to protect American labor," which have not occurred in any bill I have been able to find in the history of the country. Did the gentleman investigate the question of the constitutionality of the innovation of putting in the words "to protect American labor"? You say in this bill:

To provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States—

And then you have added the words—

to protect American labor.

I wonder if the gentleman has given any thought to the question of the constitutionality of those words?

Mr. HAWLEY. What would be the difference if they were held to be unconstitutional? They would not affect the bill.

Mr. McKEOWN. I just call the gentleman's attention to the fact that in the debate in Congress years ago it was decided it would imperil the bill to put in the language "to protect American labor."

Mr. HAWLEY. American labor is one of the most important factors in every branch of industry in this country.

Mr. COLLIER. Will the gentleman yield?

Mr. HAWLEY. Yes.

Mr. COLLIER. In his colloquy with the gentleman from Tennessee [Mr. Hull] did I understand the chairman to say—I have not had time to look at all the good things and all the iniquities in this bill; I have found the iniquities and I am going to look for the good things later on—but I want to ask the chairman if I understood him to say there was an honest effort on the part of the committee in fixing these rates to go no farther than to fix rates which would equalize the difference in the cost of production here and abroad, or do I understand that it was the effort of the committee, in addition to equalizing the difference in the cost of the production of an article here and abroad, to give a reasonable profit? I think, perhaps, the gentleman would prefer to answer it that way, a reasonable profit to the manufacturer.

Mr. HAWLEY. We adjusted the rates on the basis of the differences in competitive conditions, and while I do not know whether the subcommittees considered the element of profit, yet naturally that is a part of doing business. I can not answer the gentleman with any definiteness as to what was in the minds of the various subcommittees when they made the rates.

Mr. COLLIER. The gentleman will recall that in the campaign of 1909 there was a little clause in the platform declaring for a reasonable profit to the American manufacturer which was the slogan and the keynote of that great political campaign, and we on this side wish to know, not having had an opportunity to go into the rates in the bill, whether there was an honest effort to go farther than to equalize the difference in the cost of manufacture here and abroad in order to go no farther than to make a competitive tariff rate, or was there an intention to absolutely prohibit the entering of many articles that are used by the American consumer. I know the gentleman is going to answer me fairly.

Mr. HAWLEY. There is no intention to prohibit any importations. The intention is that they should not come in to the disadvantage of American producers and laborers.

Mr. BEEDY. Will the gentleman permit me, in response to the gentleman's question, since he has referred to the political platforms, to call his attention to the fact that in the last campaign we took issue with the gentleman's party in the precise

particular to which he has referred. His platform asserted that the extreme limit of any tariff duty was to be measured by the difference of cost of production here and abroad. Our platform went farther and did not hamper or restrict in that manner, but pledged itself to such a revision of the tariff as would guarantee the home market to American labor and American industry.

Mr. COLLIER. I thank the gentleman for his illuminating remarks. The gentleman has given me the answer I wanted.

Mr. BEEDY. We broke no faith. We kept our faith with the country, inasmuch as we were not hampered by simply the difference in the cost of production here and abroad.

Mr. LAGUARDIA. If the gentleman will permit, I would like to ask him about two matters.

Mr. HAWLEY. I yield to the gentleman from New York.

Mr. LAGUARDIA. In the first place, how does the gentleman reconcile his first statement that the bill leaves open absolute and complete free trade between the United States and our insular territory, to which we all subscribe, with his later statement which was an expression of hope that the increased tariff on sugar will develop a new industry so as to create the supply for the American demand for sugar? How does the gentleman reconcile those two statements?

Mr. HAWLEY. I do not see any difficulty in that. What is the difficulty in the gentleman's mind?

Mr. LAGUARDIA. If the gentleman's purpose in increasing the tariff on sugar is to create an American market to supply the American demand for sugar, will that not cut off the chief source of livelihood of our islands?

Mr. HAWLEY. No more than the producer of corn in Iowa will cut off the source of livelihood of the producer of corn in Nebraska or in Kansas. It is a domestic question. They compete in our market as domestic producers. The Philippines will have free entry of their sugar here and it is up to them to sell at a price at which they can compete, if they are to continue doing business in this country. The tariff does not have anything to do with domestic competitors.

Mr. LAGUARDIA. But the real purpose is to stimulate the growth of cane and beets in the United States.

Mr. HAWLEY. Indeed, surely.

Mr. LAGUARDIA. Now will the gentleman answer this question? The gentleman states that we must take this tariff as a whole and that its purpose is to affect all of the country, and there is no argument about that, yet how does the gentleman justify his tariff on bricks and cement, coupled with his statement and assurance that it will only affect the eastern border of the United States?

Mr. HAWLEY. It is quite true, of course, that a tariff is levied against all production of that kind, but, as I stated in the course of my remarks, the effectiveness of a tariff varies with the local market, and just at this time and so far as we can see the seaboard is the place that will be attacked and the competition of the local markets will determine the prices there.

Mr. LAGUARDIA. True, but it is an innovation, let me say to the gentleman, to place a tariff on any commodity which will only affect a minority or a small strip along the Atlantic coast.

Mr. HAWLEY. Oh, no. In 1922 hay was a New York problem, potatoes was a Maine problem, wheat was a Wisconsin, North Dakota, Minnesota, and Montana problem. I could go around the map and show there were storm centers where the competition centered or where the competition existed only, but the people of the United States, whether they are in a small or large geographical area, where their production is appreciable in amount, are entitled to the protection of the tariff equally with everybody else.

Mr. LAGUARDIA. We agree to that, but you are not doing that with respect to brick and cement, according to the gentleman's own statement.

Mr. CHINDBLOM and Mr. SCHAFER of Wisconsin rose.

Mr. HAWLEY. I yield to the gentleman from Illinois.

Mr. CHINDBLOM. I understood the gentleman from Oklahoma [Mr. McKeown] to be disturbed about the constitutionality of this proposed act because of the use of the words "to protect American labor"; is that right?

Mr. McKEOWN. I asked the gentleman why you had inserted that phrase in the bill when it had never been in any other bill. I asked him why you had the temerity now to insert that language in this bill.

Mr. CHINDBLOM. Why does the gentleman think it might affect the constitutionality of the bill?

Mr. McKEOWN. Because by inserting that phrase in the bill you are treating labor as a commodity, and the Supreme Court has held in the tax case on labor in North Carolina that you can not regulate labor under the guise of taxation.

Mr. CHINDBLOM. The gentleman is evidently floundering in a misunderstanding as to the effect of language in the title of a bill that is passed by the Congress. It is true that in the States the title may have an effect upon the constitutionality of an act. In Illinois, as in many other States, the act must be within the purview of the title, but that is not so in the enactment of a law by the Congress.

Mr. McKEOWN. The gentleman admits, then, that there is nothing in this bill that has to do with labor except the tariff rates?

Mr. CHINDBLOM. Nothing but the protection of labor, my good friend—that is all.

Mr. McKEOWN. Will the gentleman explain why this language is suddenly put into this bill when it has always been so zealously kept out of other bills?

Mr. GARRETT. For campaign purposes—I will answer the gentleman. They want to use that in the campaign.

Mr. SCHAFER of Wisconsin. Will the gentleman yield?

Mr. HAWLEY. I yield to the gentleman from Wisconsin.

Mr. SCHAFER of Wisconsin. It is well known and the testimony before the Ways and Means Committee indicates that the calf leather-tanning industry is in a precarious financial condition, due to excessive importations of cheaply produced foreign leather. Will the gentleman inform us why calf leather was retained on the free list?

Mr. HAWLEY. That is the old story covering the tariff acts of 1909 and 1922, where it seemed to be the policy of keeping hides, leather, and shoes together on the free list.

Mr. SCHAFER of Wisconsin. The calf-leather tanners are practically bankrupt and should have tariff protection.

Mr. HAWLEY. If there is a duty on hides, undoubtedly there should be a compensating duty on leather and shoes.

Mr. CLARKE of New York. Will the gentleman yield?

Mr. HAWLEY. I yield to the gentleman from New York.

Mr. CLARKE of New York. It seems from the testimony in the shoe industry that American machines were taken to Europe, in Czechoslovakia, for instance, where there is cheap labor, and the importation of shoes from those countries have come in here by millions, and in the last 10 months of 1928 an increase of 76 per cent. Why, under your statement of policy for tariff protection of labor, was not a tariff put on shoes?

Mr. HAWLEY. My personal opinion might differ from that expressed on the bill as reported. The committee decided the policy.

Mr. HUDSPETH. Will the gentleman yield?

Mr. HAWLEY. I yield.

Mr. HUDSPETH. The testimony before the committee showed that this coarse grade of wool came into competition with other wools, notably mohair, and yet you have reduced the duty from 31 to 24 cents.

Mr. HAWLEY. That was based on the value. There was a demand for a 34-cent duty, but it did not appear to be justified by the facts.

Mr. HUDSPETH. The committee knows that this very wool that you reduce the duty on from 31 cents to 24 cents comes into competition with mohair produced in my district and in the district of the gentleman from Texas [Mr. GARNER]. That is the chief competitor outside of rayon.

Mr. RAMSEYER. If the gentleman will yield, the representative of the Wool Growers' Association which includes the growers of Texas, agreed that this wool which is used in the manufacture of cheaper cloth should come in at a lower rate of duty. It has the indorsement of the Wool Growers' Association. It is used in the manufacture of cheaper cloth for people who can not afford to pay the higher price.

Mr. HUDSPETH. Did not he say that he had no knowledge of mohair when asked if wool did not come in competition with mohair?

Mr. RAMSEYER. I do not recall his answer to that question.

Mr. HUDSPETH. The gentleman from Texas and my county protested against the reduction of the duty on this specific kind of wool because it did come in competition with mohair.

Mr. RAMSEYER. I have no recollection about that, but I do know that the manufacturers of woolen goods and the Wool Producers' Association agreed that there should be a reduction in duty on the grade of wool of 44's and coarser.

Mr. BURTNESS. Will the gentleman from Oregon yield?

Mr. HAWLEY. I yield to the gentleman.

Mr. BURTNESS. Does the gentleman intend to discuss the flexible provisions of the act? If so, I will delay my question.

We know that the main change in this provision from that of the Fordney-McCumber bill is that before the President can make a change in the schedule there must be an investigation of the conditions of competition in the markets of the United States. I take it that the committee has investigated the legal situation carefully so that they are satisfied that if a change

is made and it becomes a law that the decision of the Supreme Court would have control over this.

Mr. HAWLEY. The attorney for the Department of Justice assisted in the preparation of that language.

Mr. BURTNESS. We all recognize the importance of maintaining a very specific guide, whether it be with reference to the cost of production or competitive marketing conditions or anything else, and I am wondering whether the committee have paid close attention to the fact that in defining the terms of production under the flexible provisions of the act they have set out several elements but have added as subsection (D) of (6), page 197, of the report:

And such other factors as the President may deem applicable.

There is no such language in the Fordney-McCumber Act, and I am such a thorough believer in the flexible provisions of the act that I should hate to see anything included in it which might be open to serious constitutional question. I am wondering if the chairman of the committee or some one else could enlighten us on the subject of whether the addition of these factors, the addition of that discretion of the President, not specifically set out in the act otherwise, will endanger the constitutionality of the act.

Mr. HAWLEY. As I stated before, a representative of the Department of Justice participated from the beginning in the revision of these administrative provisions, and found no objection to that from the standpoint of its constitutionality.

Mr. BURTNESS. I hope the gentleman will give consideration to it.

Mr. HAWLEY. I think it is worthy of careful consideration.

Mr. CHINDBLOM. Mr. Chairman, if the gentleman will permit, with reference to the inquiry of the gentleman from North Dakota [Mr. BURTNESS], the committee had before it the decision of the Supreme Court involving the constitutionality of the flexible provisions of the present law, and we examined it in detail, and we thought then and think now that the language of that decision will support the language of the present proposed change in the law.

Mr. HAWLEY. That is true.

Mr. ALLGOOD. Mr. Chairman, will the gentleman yield?

Mr. HAWLEY. Yes.

Mr. ALLGOOD. Have the increases in the various schedules that have been made been confined to agricultural products?

Mr. HAWLEY. No.

Mr. ALLGOOD. As I understand it, the President wanted relief given to the farmers.

Mr. HAWLEY. That is true. We have given relief to the farmers, but we did not omit our duty to other people in the United States.

Mr. MICHENER. Mr. Chairman, will the gentleman yield?

Mr. HAWLEY. Yes.

Mr. MICHENER. Along the line just inquired about by the gentleman from North Dakota [Mr. BURTNESS] I call the gentleman's attention to a remark made in the Senate yesterday when this matter was under discussion:

Mr. BORAH. The subject which the Senator is discussing is interesting, and it is particularly so because in my judgment the remedy lies with the Congress; that is to say, the Supreme Court of the United States has rendered an opinion which would permit the Congress to delegate our power entire to the President if we were subservient enough to do it.

Mr. SPROUL of Kansas. Mr. Chairman, will the gentleman yield?

Mr. HAWLEY. Yes.

Mr. SPROUL of Kansas. I assume that the gentleman's committee had no trouble whatever in finding industries that needed to have the duties affecting them raised to protect them against foreign competitors.

Mr. HAWLEY. We did not find them. They came to us.

Mr. SPROUL of Kansas. Surely. I wish to ask the gentleman if any effort was made by his committee to find industries which had more protection and a higher duty than they needed, which enabled them to produce exportable surpluses for foreign countries beyond the requirements of domestic consumption. Was there any effort made to locate such industries?

Mr. HAWLEY. Several of them came to us. Agriculture was a notable instance. They had an exportable surplus of corn, wheat, and various other things which they could not get rid of.

Mr. SPROUL of Kansas. Were they asking that duties be lowered?

Mr. HAWLEY. No.

Mr. SPROUL of Kansas. The point I make is did the committee seek to know whether there were any industries of a manufacturing character which had higher duties than they needed to protect them against foreign competition?

Mr. HAWLEY. A number of such instances were cited to us during the course of the hearing, but as I stated awhile ago, and I think it is the opinion of the committee, wherever the producer on the American side and his foreign competitor made no objection to an existing rate it was supposed to be operating fairly. Otherwise one or the other of them would have appealed for a change.

Mr. SPROUL of Kansas. Let me call the gentleman's attention to the fact that our Government is employing traveling salesmen or agents to tour foreign countries, seeking markets for our exportable manufactured surpluses. Would not the gentleman assume that in every such instance the protective tariff duty was unnecessarily high?

Mr. HAWLEY. Not necessarily. They might be finding markets in a country that had no manufacture of those commodities.

Mr. LOZIER. Mr. Chairman, will the gentleman yield?

Mr. HAWLEY. Yes.

Mr. LOZIER. In view of the added cost to the American people because of the increase in the tariff on sugar, I ask the gentleman whether he thinks it within the possibility or probability that we can within a generation produce in continental United States anything like a supply of sugar adequate for our peacetime needs, in view of the fact that we are now producing only about one-quarter or one-fifth of the peacetime demand for sugar, and in view of the further fact that the beet sugar which is produced in this country is produced very largely by Mexican labor, a type of labor that many self-respecting American laboring men will not engage in, because they have to get down on their bellies—

Mr. HAWLEY. If the gentleman would kindly ask his question and make his speech some other time I would be very glad.

Mr. LOZIER. Does the gentleman think the time will ever come when a self-respecting American workman will get down on his belly and knees and crawl over 160 acres of farm land weeding sugar beets? Is not that a type of labor that the American laborer will never lend himself to, and is there any chance of producing in continental America—

Mr. HAWLEY. I think that within a reasonable time we will produce more than half of our sugar. As to the American laborer not doing the work I believe we can find laborers who will do any kind of honest work for a proper compensation.

Mr. DENISON. Mr. Chairman, will the gentleman yield there?

Mr. HAWLEY. Yes.

Mr. DENISON. Heretofore the policy has been to put leather and hides and shoes on the free list?

Mr. HAWLEY. Yes; hides, leather, and shoes have the same status. They have been on the free list.

Mr. DENISON. Was evidence offered before the committee during your hearings on this bill to the effect that shoes in any considerable quantity were being imported?

Mr. HAWLEY. Yes; women's shoes are coming in, and also men's shoes. It is rather a new element of competition.

Mr. DENISON. I am glad the gentleman has made that statement. That competition, as I understand, is getting to be serious, particularly in ladies' shoes. Did the manufacturers ask for a tariff on ladies' shoes?

Mr. HAWLEY. Yes.

Mr. DENISON. Was it stated that certain kinds of leather were being brought here in competition with our domestic leather?

Mr. HAWLEY. Yes.

Mr. DENISON. Was a tariff asked on that?

Mr. HAWLEY. Yes.

Mr. DENISON. Of course, a tariff has been asked on hides for some time. Does the gentleman think the time has come when that condition ought to be met by some sort of protection?

Mr. HAWLEY. If a tariff is put on hides, a tariff should be levied on shoes.

Mr. DENISON. Does the gentleman think that will be done?

Mr. HAWLEY. That is a question that will yet be decided by a body other than myself.

Mr. DENISON. The gentleman does not care to express his own views?

Mr. HAWLEY. I have no objection to stating my own view. In the discussions on the tariff bill in 1922, as the gentleman remembers, I opposed the duty on hides because I thought it would cost the farmer more than any benefit he would derive. I have held that wherever there are manufacturers in this country who need protection and they prove their case there would be just ground for granting that protection. In harmony with that proposition it would seem that manufacturers of shoes and manufacturers of leather should be protected.

Mr. CROWTHER. Mr. Chairman, will the gentleman yield there?

Mr. DENISON. Yes.

Mr. CROWTHER. In regard to the importations of shoes, they are largely ladies' shoes in a great many instances. The importations into the United States were a small percentage of the production, but in this case the importations happen to compete with a certain group of American manufacturers who make women's shoes. The makers of men's shoes were not anxious for a duty. I may mention the fact that Mr. Florsheim made a profit of \$2,500,000 last year after setting aside money necessary for taxes and obsolescence and depreciation. Neither he nor other manufacturers have asked for a duty on men's shoes because there is no appreciable importation of men's shoes. Canada holds a 17½ per cent duty against us in sole leather. If the policy of a protective tariff has a sound basis, and I hold that it has, there ought to be a duty on hides and a compensatory duty on leather and shoes. [Applause.] There is no excuse for its not being there. The suggestion has been made many times that it would be of no particular benefit to the farmer; but, I repeat, if the policy is a sound one it ought to apply all along the line.

Mr. SCHAFER of Wisconsin. Does not the evidence indicate that the tanning industry is very nearly bankrupt because of the excessive importation of foreign leather?

Mr. CROWTHER. Yes. I know that leather manufacturers have run in the red at the rate of millions of dollars a year, and if there is any business that is being depressed by foreign competition, the leather industry is one of them. I hope in their wisdom the Members of this House will go forward in a united effort to favor the farmers and stockmen and see that there is a duty placed on hides and a compensatory duty on leather and shoes. [Applause.]

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. HAWLEY. Yes.

Mr. GREEN. We had hoped to obtain a tariff on pine-tar and naval stores products. That is an important industry in the Southeast.

Mr. HAWLEY. The only answer I can make now to that is that evidently the necessity for the duty on them was not proved.

Mr. COX. Will the gentleman yield there?

Mr. HAWLEY. Yes.

Mr. COX. The gentleman in his statement has several times used the expression "compensatory rates." Does he mean by that that specific rates of duty should always increase as the commodity advances in stages of manufacture?

Mr. HAWLEY. In measuring a compensatory duty—taking raw wool, for example—it costs a certain amount to manufacture it into yarn. That new value is the product of the spinner, and his product is used by the cloth manufacturer as his raw material.

Mr. COX. If that is the rule on which the principle works and as it is sought to be applied by the committee in this case, then where is justification to be found for putting a specific tax upon burlaps 82 per cent lower than the yarn out of which it is woven or spun?

Mr. CROWTHER. That is for the benefit of the farmer. He has bags made out of that material, and it is for his benefit.

Mr. COX. It is not for his benefit.

Mr. CROWTHER. It is absolutely for his benefit. It makes the cheapest and best bag of its kind made. Of course, there are cotton bags made. That question was sent out with other propaganda by Mr. Leavelle McCampbell. He was the author of that question, and not the gentleman from Georgia.

Mr. HUDSPETH. Will the gentleman yield so that I may ask a question of the gentleman from New York [Mr. CROWTHER]?

Mr. HAWLEY. Yes.

Mr. HUDSPETH. I see there is a 15 per cent duty on all articles manufactured out of calf hides, cattle hides, and so forth. Would not that mean a duty on boots and shoes that come into this country?

Mr. CROWTHER. No. The only duty on leather is on types of leather not used in shoes.

Mr. HUDSPETH. This says all articles manufactured out of the calf hide or beef hide.

Mr. CROWTHER. No; that is not so.

Mr. HUDSPETH. It is in the bill somewhere. If it means a duty on manufactured articles then you and I would be in favor of a duty on hides?

Mr. CROWTHER. Absolutely.

Mr. HUDSPETH. Then a duty on hides should be in this bill?

Mr. CROWTHER. It ought to be.

Mr. WHITTINGTON. Will the gentleman yield?

Mr. HAWLEY. Yes.

Mr. WHITTINGTON. I would like to ask the chairman of the committee why the request of the growers of long-staple cotton in the South and Southwest, including the States of New Mexico, Arizona, and California, were denied their request for a reasonable tariff on long-staple cotton?

Mr. HAWLEY. That was the subject of investigation in the field by one of the subcommittees, and after a careful investigation the conclusion was, after all this inquiry and consideration, as well as of the gentleman's eloquent plea, that the case was not proven.

Mr. SLOAN. Will the gentleman yield?

Mr. HAWLEY. Yes.

Mr. SLOAN. I understand this session was called largely in the interest of the farmer. I think the livestock is one of the largest interests of the farmers of this country. It involves hide production one way or another. Now, I will ask the chairman if the various witnesses who came before the committee—that is, spokesmen representing the farmers—expressed any objection whatever to a reasonable duty on hides; and if it is not a fact that everyone who did come before the committee on the subject of hides expressed the wish—I mean, of the people interested—for a duty on hides.

Mr. HAWLEY. Those who appeared in the interest of agriculture and of stock growing proposed a duty on hides. Those who used the hides for manufacturing purposes were willing generally—there were some exceptions—to see a duty on hides if there were proper compensatory duties put on leather and manufactures of leather.

Mr. SLOAN. Will the gentleman go farther and give some specific reason why this was not accorded to this very large industry throughout the country, an industry not only very much interested now but an industry which has been deprived of protection, as I think absolutely unjustly, since 1909?

Mr. HAWLEY. Well, that is a long story to undertake to tell at this time. I respectfully refer the gentlemen to some remarks I made in 1922, which are in print and available.

Mr. BANKHEAD. Will the gentleman yield?

Mr. HAWLEY. Yes.

Mr. BANKHEAD. The gentleman from Oregon has not lost sight of the fact that by unanimous consent of the House he has been permitted to use all the time he desires to conclude his address, and the gentleman from Nebraska has asked the gentleman from Oregon, the chairman of the committee, a very interesting question and many of us on both sides of the aisle would like to have an answer to it even if it is a long story.

Mr. HAWLEY. It will be told in the course of the debate. There is another gentleman to follow me and I desire to give him the opportunity to take the floor.

Mr. CRISP. Will the gentleman yield?

Mr. HAWLEY. Yes.

Mr. CRISP. My chairman will recognize that we of the committee did not have an opportunity this morning to ask any questions of our colleagues on the committee and I would like my chairman to answer one question if he will. In reply to the gentleman from Mississippi [Mr. WHITTINGTON] he stated that the request of the growers of long-staple cotton failed to make out a case whereby you could give them a duty on it. I suppose the New England manufacturers who use this cotton to manufacture thread and higher grade cotton made out their case because you gave them an increase over the rates they already have. Is not that true?

Mr. HAWLEY. Those who made out their cases to the satisfaction of the committee obtained relief.

Mr. CHINDBLOM. Will the gentleman yield?

Mr. HAWLEY. Yes.

Mr. CHINDBLOM. There was one small voice that at times was very dimly heard and did not appear in all the hearings. It was not the voice of the grower of hides nor the manufacturers of shoes, but it was the small, unheralded consumer who buys everything that is grown and made in the United States who occasionally got consideration.

Mr. HAWLEY. I thank you, gentlemen. [Applause.]

I desire to commend to the House and to the country the diligent, able, and effective service of my Republican colleagues on the committee. With an untiring industry and a singleness of devotion to the public service they cheerfully labored day and night in the preparation of this bill. Their special abilities, careful investigations, and good judgment have distinguished them as public servants of the first order. They deserve the thanks of the country and merit the confidence and approval of the House and especially that of their fellow Republican Members. No body of men could have given themselves more wholly to a public duty in spirit, mind, and body. They have earned the praise of patriotic soldiers of the common good.

The CHAIRMAN. The gentleman from Oregon has used 2 hours and 20 minutes. The gentleman from Texas [Mr. GARNER] is recognized for one hour. [Applause.]

Mr. GARNER. Mr. Chairman, ladies and gentlemen of the House of Representatives, I wish I felt a little better physically than I do at present in order that I might, perhaps, more effectively handle this situation.

The gentleman from Oregon [Mr. HAWLEY] in the beginning told you why this bill is before the Congress, and if I understood him correctly, it was on account of the discussion of the relief proposed for the agricultural interests in 1927 and 1928, and that as a result of such discussion it was determined by the people of the United States that such relief be extended. In response to this determination the Republican Party promised a revision of the tariff in the interest of agriculture.

I agree with the gentleman about that; but I wish to refresh his memory and call the attention of the House and of the country to the basis of this agitation and how it was brought about and how the country became impressed with the fact that agriculture is not receiving at the hands of the Government proper consideration in the matter of the economic laws of this country as they apply to the customhouse.

Mr. Chairman, I understand that under the rules I may speak of a Congress that has passed, although I can not speak of another body as it exists at present. I can refer to the individual Members of that body as it existed a year or more ago.

A little more than a year ago farm relief bills were passed, sent to the President of the United States, and received his veto. The Republican majority in the House and the Republican majority in the Senate, having a Republican in the White House, were unable to give relief to the American farmer.

These men believed that the American farmer should have relief, not only by the bill that they passed and sent to the President but that the farmer should have further consideration with reference to the tariff, not only in increased rates on agricultural products but by another method, and I want to call your attention to this particular method.

On January 16, 1928, in the Seventieth Congress, a Senator of the United States by the name of McMASTER introduced a resolution in that body, and I will read it for the benefit of the House and insert the vote for fear some of the older Members have forgotten it and some of the newer Members never knew about it:

McMaster resolution

Resolved, That many of the rates in existing tariff schedules are excessive, and that the Senate favors an immediate revision downward of such excessive rates, establishing a closer parity between agriculture and industry, believing it will result to the general benefit of all; be it further

Resolved, That such tariff revision should be considered and enacted during the present session of Congress; and be it further

Resolved, That a copy of this resolution be transmitted to the House of Representatives.

VOTE IN SENATE

Yeas 54: Ashurst, Barkley, Bayard, Black, *Blaine, Blease, *Borah, Bratton, *Brookhart, Bruce, *Capper, Caraway, Copeland, Dill, Edwards, Ferris, *Frazier, George, Gerry, Glass, Harris, Harrison, Hawes, Hayden, Heflin, *Howell, King, *La Follette, McKellar, *McMaster, Mayfield, Neely, *Norbeck, *Norris, *Nye, Overman, *Pine, Pittman, Reed of Missouri, Robinson of Arkansas, Sheppard, *Shipstead, Simmons, Smith, Steck, Stephens, Swanson, Thomas, Trammell, Tyson, Wagner, Walsh of Massachusetts, Walsh of Montana, and Wheeler.

Nays 34: Bingham, Broussard, Couzens, Curtis, Cutting, Dale, Deneen, Fess, Gillett, Gooding, Gould, Greene, Hale, Johnson, Jones, Kendrick, Keyes, McLean, McNary, Metcalf, Moses, Oddie, Phipps, Reed of Pennsylvania, Robinson of Indiana, Sackett, Schall, Shortridge, Smoot, Stelwer, Warren, Waterman, Watson, and Willis.

NOTE.—Thirteen (*) Republicans voting yea.

The older Members of this House, those who were Members of the Seventieth Congress, will recall this resolution coming to this body. They also will recall the fate of that resolution.

This was the beginning of the Republican Party's consideration of the necessity of revising the tariff, and the basis of it was that the rates in the present law were excessive.

Thirteen members of the Republican Party voted for this resolution. I will call their names and see if you can remember if any of them are Members of the Senate at the present time; because I am referring to them now as Members of the Seventieth Congress, and not as Members of the Seventy-first Congress:

A Senator by the name of BLAINE, a Senator by the name of BORAH, Senators BROOKHART, CAPPER—I see some Kansas people here; I believe he is from that State—Senators FRAZIER, HOWELL,

LA FOLLETTE, McMASTER, NORBECK, NORRIS, NYE, PINE, and SHIPSTEAD. [Laughter.]

Gentlemen, I have called the roll. I want to know whether these gentlemen properly expressed the sentiment of their States. Do the people in those States believe that the rates in the present tariff law are excessive?

I was amused at Mr. HAWLEY's answer to this. He said nobody objected to the present rates. And then we have at the end of his speech a statement by the gentleman from Illinois [Mr. CHINDELOM] that there was a great mass of undercurrent thought that was faintly heard—the consuming public; but I do not think Mr. HAWLEY had this in mind, because the gentleman stated that he did not give consideration to anything except where some one wanted some favor. This was the sum and substance of his statement.

We have now the genesis of this particular bill.

The campaign came on, the question of the tariff came up in that campaign and the Republican candidate for President promised to call a special session of the Congress. And what was he to call it for? For the relief of agriculture; in two ways—a marketing system, which bill has already passed this House and gone to the Senate, and relief through the operation of the tariff.

We have now come to the point where your promises have been made and you are now going to perform; and this bill is the result of your promises. In the light of those promises I want later on to analyze this bill a little.

I want to show now in whose hands is placed the duty of revising this law in the interest of agriculture. I want to illustrate this by showing you a map to indicate to you where the Republican members of the Ways and Means Committee, the board of directors, interested in agriculture come from, and who are taking care of this situation that has been demanded by agriculture. I want to show you, if I can, and to impress upon you, the surroundings of these gentlemen to see whether you think they are a fair and impartial jury for the fulfillment of this determination. [Laughter and applause.]

Gentlemen of the House, you men who have been here a long time and who were Members of the Sixty-eighth, Sixty-ninth, and Seventieth Congresses, will remember that in the discussion of one of the revenue bills a very distinguished statesman, a man whom we all respected and loved, a Republican but a valuable Member of the Congress, who has gone to his reward, Mr. Madden, of Illinois, announced on the floor of this House, in discussing the internal-revenue rates that should be applied, that he wanted the country to know that the board of directors of this Nation, the Republican members of the Ways and Means Committee, a majority of them, lived east of the Mississippi and north of the Ohio River.

That was the declaration that went to the country in order to tell them not to be alarmed. It was to the effect that these "western bolsheviks," these insurgents that come from the West, even though they may combine with those south of the Ohio, will have no effect in forming the policies of this Republic. [Laughter.]

Why, gentlemen, the Democrats have to make up their committees as well as you Republicans have to make up yours. We have to elect in our caucus the Democratic members of the Ways and Means Committee. I believe you select them by a different method. We elect them and we have a rule that is a good rule and which ought to apply to your party, and that is that we do not allow any State to have more than one Representative on that committee. It is too important. Although the great State of New York has 22 Democratic Members in this House our caucus would not permit them to place another man on the committee.

But what do we find on the Republican side of the House? We find that when the Republicans came to select their members on the Ways and Means Committee that the Members east of the Mississippi and north of the Ohio have a substantial majority—11 out of the 15. Eleven members of the Ways and Means Committee wrote this bill, and they propose to keep you from amending it or even having an opportunity to amend it. Eleven of them live in that sacred territory east of the Mississippi and north of the Ohio. They constitute the directors which Mr. Madden said could be depended upon to take care of the direction of this Government.

Look up here [indicating on the map]; you can cover the territory on the map with your hand they are so close together.

I see the gentleman from Massachusetts, whose heart is yearning for the farmer. During the hearings, when the farmers were presenting their case, he seemed to be much concerned about it. I could almost see the tears rolling down his cheeks in the interest of the farmers. [Laughter.]

We see the bill written, not in the spirit of this resolution passed by the United States Senate, which 54 Senators voted for

and 34 against. And let me say that the 54 who voted for the resolution are in favor of adequate protection to every industry in the United States. That is all they want and all they said they wanted. It is apparent to every man in this room that the great majority of rates in the present law that have been increased in this bill are excessively high and ought to be reduced.

There is not a man who in his heart does not believe that there are rates in this bill—especially the chemical and metal schedules—that are unconscionable, which nobody can defend.

I want to refer again to this map. Here is where the demand for the bill came from [indicating on the map]. This little section [indicating on the map] is going to say to the country that you can not amend this bill—we made the bill and you take it. The Republican members of the committee will offer some amendments, but 11 men will determine what amendments will be offered.

Look at California—not a man on the committee, while they have two from New York. California is a great State, with a population smaller than New York, but a good deal larger in area. In fact, three-quarters of the area of this country had absolutely no voice in the writing of this tariff bill.

Yet you tell me I ought not to protest; that the country ought not to protest against such treatment of the balance of the country.

Pennsylvania has two Republican members on the Ways and Means Committee. Just look at that map and see for yourselves. Massachusetts has one; New York, two; one from Rhode Island; one from New Jersey. They are all brothers right up there together, and then all they have to do is to drop down to Ohio and they can kick the rest of them in the ribs, because they have a majority.

SEVERAL MEMBERS. Give us the names.

Mr. GARNER. Oh, I would just as soon mention their names in the RECORD, although they get in there more often than they ought to. Here are your 11 men east of the Mississippi and north of the Ohio: CROWTHER and DAVENPORT, of New York; ESTER and WATSON, of Pennsylvania; CHINDELOM, of Illinois; TREADWAY, of Massachusetts; ALDRICH, of Rhode Island; BACHARACH, of New Jersey; KEARNS, of Ohio; McLAUGHLIN, of Michigan; and FREAR, of Wisconsin. And you have four men from the West—one each from Colorado, Oregon, Washington, and Iowa. Those are the only four States that have representation in all that great territory west of the Mississippi.

Mr. SCHAFER of Wisconsin. Mr. Chairman, will the gentleman yield?

Mr. GARNER. Not just now; if the gentleman will pardon me. I am talking about matters of organization, and I believe I will go on for a moment without interruption.

Mr. SCHAFER of Wisconsin. Will the gentleman put in the RECORD at this time how many Democratic members of the Ways and Means Committee are from west of the Mississippi River?

Mr. GARNER. Yes; I will do that. We have only 10 Members on the Committee on Ways and Means, and let me tell you what the Democrats did.

Mr. CRISP. And we were not permitted to help write the bill.

Mr. GARNER. As my friend from Georgia suggests, we were not permitted to help write the bill, and it makes no difference where we live.

Mr. SCHAFER of Wisconsin. How many—

Mr. GARNER. Oh, I decline to yield now. I will be frank with the gentleman. I want to make an intelligent statement, and I want it to be understood. The Democrats had to fill some vacancies on the Ways and Means Committee. The Democrats have only 163 Members in this House, and a large portion of those come from the South, very few from up North, I am sorry to say. But the South tries to be frank and honest and fair with the entire country, and the result was that when we selected the Democratic members of the Ways and Means Committee, the most important committee of all, we went to the State of Washington, and there is only one Democratic Representative from there. There are 16 or 18 Representatives from Texas and twenty and odd from New York, but we went to the State of Washington, and we went there to give that section of the country a place on this committee in the interest of fairness, in the interest of proper representation of the entire country.

Where did we go to fill another vacancy that occurred by death of a Member from Louisiana? The South could justly have claimed that place because a Southern Member had died. There are only 10 Democratic Members on the Committee on Ways and Means. We already had 6 from the South. It was not right not to recognize the North, and we gave the assignment, caused by that vacancy, to a man from Indiana, where we have only 3 Democrats in the delegation.

We like to be fair, and we want to treat the country right. We appeal to you to follow our example and give us fair play on this committee. [Applause on the Democratic side.]

If you will not treat the country fair by making up your own committees, then in the name of conscience and good reasoning and fair play, treat us right by giving us a fair opportunity to consider this measure which these 11 men have brought into this House. I want you to do it.

You are going to have a conference to-morrow of the Republicans in this Chamber. Very well; I believe in conferences; I believe in caucuses. I believe in binding the people to vote the way the party majority or two-thirds of it want them to vote. I believe in that. You Republicans say you do not. Mr. TILSON says that he does not want to gag anybody; but, Mr. TILSON, you are gagging everybody if you do not let us consider this bill. You say you do not believe in applying the gag rule to your side of the House, but you are applying it to every Member of the House of Representatives, not only to the Democratic Members but to the Members on your own side, when you decline to give us an opportunity to consider this bill under the 5-minute rule.

You see now the source from which this measure comes; let us see what they brought forth.

I was amused at the gentleman from Oregon [Mr. HAWLEY] when questions were asked him that were difficult to answer. In fact, there was no answer. He just simply said: "Well, they just didn't make out a case."

I thought about it when the gentleman from Mississippi asked him the question about long-staple cotton. If there ever was a case in this country where competition, if that is going to be the basis of it and the building up of an industry to supply the American market also enters into it, then long-staple cotton is that case. The testimony before the committee was conclusive, and no man will deny that this country can produce—if it could get the price, and that is what you levy a tariff for—every pound of long-staple cotton that this country can use. You decline to give a tariff to the grower of long-staple cotton, and at the same time, at the demand of the manufacturer, you increase his tariff, who uses that identical cotton—all in the name of the farmer, to benefit agriculture—increasing the farmer's cost for the finished product without giving him the slightest benefit.

I shall be able to show many instances of that kind in this bill when the proper time comes, when we come to discuss a particular schedule. It comes right home to you in your cement and brick schedule. There are numerous instances where you could have levied rates in the bill that would have protected the farmer; that would have given him the exclusive American market, as you are going to give the manufacturer, to the latter's great benefit, at the expense of the American consumer; you increase the manufacturer's rate and decline to do the same for the farmer, and yet you sit here in this House, called together by the President of the United States under a promise that you would relieve agriculture by undertaking a revision, or a modification, or a limitation, or a readjustment, or whatever you may term it, of the tariff act, and you have not done it!

I am going to take up the first schedule, and I can illustrate it right there.

Before I proceed to discuss the first schedule of this bill I want to refer to a statement made by the gentleman from Oregon [Mr. HAWLEY] as to the amount of agricultural products to which he could apply his rule. He gave you the amount of imports into the United States for 1927, did he not? He gave you the amount of exports. He also gave the amount of imports and exports in 1928. I want to illustrate to you what seems to my mind the absolute conclusive proof that agricultural interests have not had proper consideration at the customhouse, have not had it in the present tariff law, and are not given it in this bill.

Remember, now, there are \$4,163,000,000 imports, as I recollect, coming into the United States for that year.

Mr. STEVENSON. Agricultural products?

Mr. GARNER. No; total products coming into the United States. It was \$4,163,000,000, as I recall. Now, what were they? On May 2, this year, I requested the Commerce Department to furnish me with a statement of the amount of imports into the United States of agricultural products, raw and manufactured. I am going to put it in the RECORD. I ask unanimous consent, Mr. Chairman, to revise and extend my remarks.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GARNER. This is under date of May 2, 1929. This is from H. O. P. Hopkins, Acting Director of the Department of Commerce.

Total for all general imports of agricultural products, 1927, \$3,257,798,000.

Now, gentlemen, you can figure and take testimony and hear liars and embellishers and anybody you want to; but the best witness there is relative to the tariff is the customhouse, showing how much comes in and how much does not come in. If you compare the production of commodities in this country and the importations, you have the most reliable index as to what the rate should be. If you have such a condition as at the present time, under the existing law, wherein under the metal schedule alone there is shown to be \$35,000,000,000 of production and \$161,000,000 of exports and the pitiful sum of \$31,000,000 of imports, do not you know that those rates are prohibitive, with less than one-tenth of 1 per cent coming in?

You Republicans should turn to your book, this bill, and see the increases in the metal schedule. Listen: There is a billion and a half dollars production covered in one clause of the bill where the duty is increased from 40 to 50 per cent. The basket clause is the heart of the whole thing. When you have placed a duty on practically everything on God's green earth and then think of something else, you put it into the basket clause. And the Republican Party, through its Committee on Ways and Means, with that record of \$35,000,000,000, with less than one-tenth of 1 per cent of importations, and with \$161,000,000 of exports and only \$31,000,000 of imports, have the nerve to increase the basket clause rate from 40 to 50 per cent. Gentlemen, it can not be defended in good conscience. It can only be defended after the campaign contributions come from Pennsylvania, because there can be no other reason for such an unconscionable rate as that. [Applause.]

The chemical schedule, as we all know, is a prohibitive schedule. We have one provision in this schedule for which the Democrats are responsible to some extent; but I know if we were in the majority now we would have sense enough to take it out. During the World War we put an embargo on coal-tar products. Germany controlled the dyestuff industry before the war. About 80 per cent of all dyestuffs were manufactured by Germany. Their commercial methods were deplorable; they were unconscionable. When the year 1922 came along you Republicans did not have the nerve to do that. But you did indirectly what you did not have the courage to do directly. You put an American valuation on coal-tar products and dyes, and under that American valuation nothing can come in. It is impossible.

I want you to turn to your bill and look at this schedule, and especially I want you who represent the dairy people to look at it. The chemical schedule contains an item of casein. I do not know whether you have heard much about it or not. I had not heard much about it before the hearings were had. I know the dairymen have to take care of their milk in some way. Now, what is casein? What is it made of? Who produces it, and who consumes it? All those things have to be considered when you come to the consideration of a tariff bill. Casein comes from the cow. It is made from skimmed milk. It is used by paper manufacturers in glazing paper.

Now, what are the facts in the case? The facts are that Argentina sends to this country about 50 or 60 per cent of the casein used in the manufacture of paper. In other words, the makers of casein in this country have keen competition, if you call foreign imports amounting to 50 or 60 per cent keen competition.

The dairy people appeared before the committee and presented their case. They showed that there were 10,000,000,000 pounds of milk—not according to their statement, but according to figures of the Agricultural Department—wasted in the United States each year, thrown away. They said, "Give us a duty of 8 cents a pound on casein and we will produce every bit of it, and we will have the American market," like the textile and steel industries have now. I thought they made a good case. If I had possessed the power of giving them a rate, I would have given them 6 cents, because people always ask for a little more than they usually need, whether they are farmers or manufacturers. As the industry is in an experimental stage I would have put on a rate of 6 cents. But what did the Republican members of the committee do? They did not give them anything, and why did they not give it to them? Read it; read it in the report. It is a glaring instance of what was in the minds of the Republican members of the committee when they wrote this bill. They said they did not give it to them because they did not want to make the paper manufacturers pay the price. They do not care for the farmer or the consumer unless

he is a rich manufacturer who contributes to the Republican campaign coffers. [Applause.]

Then there was another reason they gave, and it was such a silly one that nobody should have put it in this report or given any sanction to it. Do you know the reason why the manufacturers of paper said you must not increase that duty? It was, they said, because cow's milk in the United States does not make as good casein as cow's milk in the Argentine. [Laughter.] It is in the record, and this bunch over here, the Republican members of the committee, repeated it in their report. [Laughter.]

What do you think about cow's milk in America not being as good as cow's milk in the Argentine?

In addition, they drew an indictment in their report against the genius and progress of the American business man which I resent. We have as good intellect and organization here as there is in the world, and yet they say in this report that one of the reasons why they did not give additional protection to casein was that they had a better organization in the Argentine to produce casein than they have in the United States.

Do you not think we can get up as good an organization as they have in the Argentine? According to your general statements we have beaten everything in the world, and yet when you want to serve your special interests you give the excuse that little old Argentina has a better organization than we have here in the United States.

But you increase rates to close every other loophole. There are just one or two little things in it where there is a leak. One drop falls about every four days through the customhouse and you have stopped it up. That schedule is just as prohibitory as the steel schedule is. Is it in the spirit of that Senate resolution that said the rates were excessive? Has there been any response, on the part of this committee, to the sentiment expressed in that resolution and concurred in by many on your side of the Chamber when it was passed by the Senate and tabled in this House? Many of you believed then, as you believe now, that many of these rates are excessive. If you had left them where they were it would have been bad enough. If you had left the Fordney-McCumber rates where they are at the present time and had given agriculture what it ought to have I would have voted for this bill. [Applause.] It would have been better than the present law and I would have voted for it. That is what I asked you to do, and all I asked of the committee was to accomplish what it set out to do, to give to agriculture rates comparable with those granted manufacturers.

If I had my way I would have cut down some of the rates. But I could not accomplish that, and I thought you would have the decency and good judgment to raise agriculture to a position comparable with the manufacturers. If you had done that, I intended to vote for the bill. But you did not do it. Instead of doing that you gave agriculture one or two little tidbits and stopped up every manufacturing leak in the country, all of which will cost the American people not less than \$300,000,000 or \$500,000,000 additional on the things they have to buy.

I am going to figure out, with the assistance of some gentlemen who understand it, a comparison of this bill with the present Fordney-McCumber law and see how much benefit the farmers receive and how much additional they must pay. I want to put it in the Record just like it was put in two or three years ago, when the farmers were undertaking to show that you people from the East had better give them relief or they were going to tear down this protective tariff system in the East. They were going to do it and then you yielded and influenced them into supporting you, and you come in here at this session of Congress under the pretense of relieving American agriculture, but instead of doing that you take a new hitch on the protective tariff system for the manufacturers.

Mr. Chairman, I want to tell you something that I could not do. I did not dream the Republican members of the committee were going to submit the proposals they have; but I could not support this bill even if it carried the rates in it that I would write, and I want to say also that if I had the privilege to sit down and write the rates in this bill, and it was to be the law, I would give adequate protection to every industry in the United States just as far as my intellect would permit.

I would treat everybody alike. I would not have sectional protection and class protection and protection for special interests. I would have labor protected all the way down the line, whether the laborer was a farmer, a mechanic, or a man working in a shop. I would treat all alike, but you do not do this.

Let me show you something that is contained in this bill that makes it indefensible. We have at present what are known as sections 315, 316, and 317. Sections 315, 316, and 317 are known

as the flexible provisions of the tariff. No man has ever defended this as a proper policy of the Government.

I see the gentleman from Wisconsin [Mr. COOPER] sitting to my left here, one of the elder statesmen of this Nation, and I want him to think over, if he will, how far a legislative body ought to go in surrendering its power of taxation.

I want you all to turn over in your minds and see what it means for Congress, representing the people of America, to surrender its rights to levy taxes.

Remember this, gentlemen: When the legislative body surrenders its tariff power and its obligations to the Executive—under our system of government a majority can do that, but you can never recover them except by a two-thirds vote of the House and the Senate.

Remember that when you surrender this power of taxation you surrender it for all time to come or until the two bodies, by a two-thirds vote, can take it away from the Executive.

If an ambitious man is in the White House, he will not surrender it. If a wise and patriotic man is in the White House, he may have a want of confidence in the Congress, so neither of them would be willing to give up the power; and in this bill you are forever surrendering to the President of the United States the power to increase or decrease, to the extent of 50 per cent, the rates that you are placing in this bill.

In addition to this provision, you also have provided a wonderful way of giving the President information. This is about the way it is done: You say to the President of the United States and to the Tariff Commission: "You just go out now and pursue this policy or that policy—I think there are three or four of them—and when you get through, if you do not know anything about it, guess at it and tell me what to do."

If this is not in the bill, then I do not know how to read. It virtually says: "If you can not come to any conclusion, just render a guess and send it to me."

There is no definite formula by which they are to ascertain even the value, much less exercise the right of increasing the rate.

However, this is not the worst feature or the most vicious provision in the bill, although it is perhaps the worst provision from the standpoint of surrendering the obligations of the legislative branch to the executive branch of the Government; but there is another vicious provision in the bill.

I have heard before the argument that Mr. HAWLEY speaks of, and if it were possible to administer such a law American valuations would be good, but this can not be done. In my humble judgment, you can not administer such a law; but if American valuations could be ascertained, with proper rates applied to them, it would be an excellent system for this country, because you would have to revise your rates and revise them very materially downward. The highest rate you could give on any product would probably be 20 per cent, and certainly not exceeding 25 per cent, if you had American valuation. You have not got American valuation, but I will tell you what you have proposed by this bill—and if this is not correct I want to be corrected by some of the wise Members who belonged to this particular subcommittee.

You have in this bill given power to the Secretary of the Treasury and his subordinates to determine by domestic means the value of any import brought into this country. It is their duty to find out what the value is, but they have authority in this bill, remember, gentlemen, to ascertain the value by domestic measurements. Is not this so? Does anybody on the Republican side know that?

If they did know it they probably would not admit it, but in all likelihood they do not know it because it was written up in the Treasury Department and sent down to them, and as a usual thing they take such pills without even sugar coating them.

This is what you have in this bill: First, you have surrendered your right for an indefinite period to raise or lower the rates, because there will be no occasion for another tariff bill until the American people rebel against the iniquity of what I believe to be the highest and most indefensible bill ever imposed upon the statute books. And you make the Secretary of the Treasury the absolute arbiter, and you have taken away from the courts the opportunity of the parties affected going into court and having them review the action of the Treasury Department.

Did you ever have this in any other law? Do you think this is good law? Do you Republicans think, in the first place, if you persuade yourselves you had better surrender your rights in order to let the President put the rates up or down, that you also want to surrender the right of the judiciary to function?

In one provision you surrender not only the right of one branch of the Government to a second branch but as far as the Constitution will permit you destroy the right of the third branch, the judiciary, to function in the matter.

Why, you might just as well kick the court out of existence. You have no use for the nine men that sit in New York; you have little use for the Court of Customs Appeals. They can go fishing nine months of the year. There will not be anything for them to do. They are up in their work—I have a letter to that effect—so you can not give that as an excuse for taking their functions away from them. You are doing it because you want Andy Mellon to set the values.

When Joe Grundy goes up and says, "Andy, you can't find the foreign value of this; you try to find the American value," and then Joe Grundy will tell him what it is. Joe Grundy can tell Andy Mellon—for he is on good terms with him—the value that ought to be established.

I tell you on my honor that when I approached the question at the beginning of the session and at the hearings I did it with the hope that I might vote for this bill. I wanted to vote for it. Every Member on this side of the House knows it. I was anxious to vote for it, because I thought the tariff ought to be taken out of politics; I wanted to get rid of it as a political question, not only for the benefit of the country, but for the benefit of the Democratic Party and because a large majority of the people are in favor of protection on something. I do not know of a half dozen men in the House of Representatives that are not in favor of protection on something. There is not a United States Senator—and there are 96 of them—that you can find who will say that he is opposed to protection on everything. So, from a practical standpoint, one who believes that the Democratic Party ought to succeed in the control of the country, I was anxious to do what I could to further its interest in that particular.

Somebody asked me the other day, in view of that statement, what is the difference between a Republican and a Democrat on the tariff. Well, I will tell you my conception of it. If I had the writing of the tariff bill, so help me God, I would write it without reference to section, without reference to interest, without reference to anything except the plain application of the difference in the cost of production here and abroad, that labor may maintain its standard of living and agriculture receive adequate protection.

Now let us see the difference. I have shown you the map. The difference is this: That you have a sectional protection. I will show that by the record. I challenge you to go to the record and examine the hearings. The Republicans, one from Pennsylvania and two from Massachusetts, declared it to be the Republican policy of free raw material in Massachusetts and ample protection for the manufactured articles. That is your policy. Besides you will favor one interest as against another interest. That is demonstrated in this bill in a half dozen particulars. Take the milk producers and the rich manufacturers in New England, and who got the pot? New England got it. They got it not on merit, but on account of the men who contribute the most to the organization.

That is the difference between a Democrat who would give ample protection and the Republican who would give the best rate to the section and the interests in making up the bill.

I want to refer to my friend, Mr. BACHARACH. While he was talking I got Mr. Price to go out and get this advertisement, and I am going to advertise the Gillette Safety Razor in the CONGRESSIONAL RECORD. I think it is justifiable under the circumstances. Here is an industry that is in this tariff bill in the metal schedule. I am going to read you something from the report of the board of directors for the year 1928:

GILLETTE SAFETY RAZOR CO. ANNUAL REPORT, 1928

Consolidated balance sheet

ASSETS, DECEMBER 31, 1928

Cash	\$8,338,017.70
Accounts receivable	19,669,647.24
Acceptances receivable (see contra)	457,994.87
Notes receivable	267,727.13
Inventories (at cost)	6,006,650.90
Investments (at cost) ¹	6,779,642.22
Real estate and buildings—less reserve for depreciation (\$726,990.08)	6,012,998.34
Machinery and equipment—less reserve for depreciation (\$4,734,267.72)	4,679,727.17
Patents—licenses property of Canadian subsidiary)	3,616,230.19
Patents (parent company)	1.00
Total	55,828,636.76

¹ Subsidiary companies (excluding Montreal and Slough), which are included in the consolidation, \$2,536,770.73; foreign-government bonds, \$889,876.15; domestic and foreign corporation, \$2,602,190.05; treasury stock and miscellaneous, \$750,805.29; total, \$6,779,642.22.

LIABILITIES, DECEMBER 31, 1928

Capital stock	\$33,309,045.59
Surplus	18,853,570.07
Reserves:	
Taxes	\$1,894,111.93
Advertising	516,525.35
Contingencies	386,763.80
Miscellaneous	462,371.20
Acceptances discounted (see contra)	3,259,772.28
Accounts payable	312,731.88
	93,516.94
	55,828,636.76

EARNINGS, FEBRUARY 11, 1929

The net earnings for the year, including subsidiaries, are, after ample reserves for taxes, depreciation, and all proper charges against operations:

1928	\$16,244,429
As compared with—	
1927	\$14,580,902
1926	13,311,412
1925	12,089,857
1924	10,122,473

DIVIDENDS

During the year four quarterly dividends of \$1.25 each, a total of \$5 per share, were paid on the company's 2,000,000 shares.

On October 31, 1928, the shareholders, at a special meeting called for the purpose, authorized an increase in the company's capital stock from 2,000,000 shares to 3,000,000 shares.

From the additional shares authorized a 5 per cent stock dividend (100,000 shares) was paid to shareholders December 1, 1928. This action indicates the policy of the directors of your company to conserve the company's cash resources and at the same time to allow shareholders to participate in the steadily increasing earnings of the company.

FINANCIAL

The policy of your management is to have always available ample cash resources to provide for the continued expansion of the company's business.

It is the policy of your company to finance all of its own requirements without recourse to its credit.

It is interesting to note that bad debts for the year 1928 were \$12,025; the 5-year average of this item was \$19,381.

The value of your company's investments is considerably in excess of the amounts carried on its books.

SALES

Intensive merchandising of Gillette blades during 1928, in both domestic and foreign markets, resulted in splendid increases in sales. Razor sales were also substantially larger in domestic and foreign fields.

The business in diversified products is gradually increasing, and these lines form a minor but important part of the company's output.

MANUFACTURING

The continued development of automatic machinery and consequent elimination of manually performed operations has enabled your company to make substantial savings in its pay roll and in the cost of production.

Your company's three plants, at Boston, Montreal (Canada), and Slough (England), are operating on a high standard of efficiency and are maintaining the fine quality of Gillette products which is our constant aim.

CONCLUSION

It is a pleasure to record again consistent increases in sales and earnings. Foreign razor orders for 1929 already equal half of the company's 1928 entire output. It may also be of interest for the shareholders to know that the ramifications of the Gillette Safety Razor Co.'s operations are so extensive that they cover the most remote corners of the earth. So broad a market adds great strength to the company in its business. Varying conditions may affect any one of these markets, but never has history shown that all markets were affected alike and at the same time.

We regret to record the death during the year of Mr. Robert C. Morse, a director in your company since 1917.

Submitted on behalf of the directors.

J. EACHRED, Chairman.

There is an industry that covers the face of the earth, and it announces it—the four corners of the earth. It says its export trade is greater than its American trade. It not only has the American market but it is capturing the markets of the world. Yet we find a prohibitory tariff laid on all competition in this country. Can you defend that, gentlemen? In your conscience can you defend that? Is that in the interest of the farmer; is that revising the tariff in the interest of agriculture. Mr.

² Represented by 2,000,000 shares of common stock—no par—to November 30; 2,100,000 shares thereafter.

FREAR, are these rates that you put in this bill, increasing the basket clause as high as 50 per cent, justifiable? You will not answer that because you know it is not.

Mr. FREAR. Oh, I will answer it in time.

Mr. GARNER. You will never answer that. You are not in favor of that and I will wait now for you to answer it if you want to. No man can say that he is in favor of that except the man who forced it in there.

Mr. FREAR. I want to quote the gentleman when I answer him.

Mr. GARNER. The gentleman can quote me all he pleases. I charge that this metal schedule was written and that reports were made and the majority agreed to them, and that you then rewrote the metal schedule. Why did you rewrite it? Why, Mr. Grundy came down here, and he got the Pennsylvania delegation to go and tell you what to do, and you would either do that, either obey that order, or they would join with the western bunch and then you would have to submit the bill to the judgment of this House; and that was death, according to your viewpoint. You did not want this child to be reviewed by this House under the 5-minute rule. You surrendered your own judgment, if you did not surrender your conscience, because, forsooth, he who contributes liberally and collects a million dollars for campaign purposes can come to Congress and through its great Committee on Ways and Means demand from the American people \$150,000,000 additional in order that they may profit by it. Gentlemen, it is indefensible, and the conscience of most of you Republicans know that. That is the reason I say that when you placed it in the hands of these gentlemen to write this bill you placed it in the hands of men who intended to and finally did serve a section and interest, and you did not undertake to take care of the farmer except in little "leopard" spots, as the gentleman from New York so properly characterized them.

The CHAIRMAN (Mr. MICHENER). The time of the gentleman from Texas has expired.

Mr. CRISP. Mr. Chairman, I ask unanimous consent that the gentleman from Texas may be permitted to conclude his remarks.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent that the gentleman from Texas may be permitted to conclude his remarks. Is there objection?

There was no objection.

Mr. GARNER. Mr. Chairman, a friend of mine has just come to me and suggested that I may be taxing my strength too much. I am going to control the time, and sometime later on I will talk in detail more about this bill.

Mr. LOZIER. Mr. Chairman, will the gentleman yield?

Mr. GARNER. Yes.

Mr. LOZIER. I assume the gentleman from Texas remembers that "once upon a time," James P. Foster, president of the Republican League of the United States, sent out a letter to the manufacturers soliciting funds to carry on the Republican campaign. In this letter Mr. Foster complained that the highly protected manufacturers in view of the great fortunes they were accumulating through high tariff laws should contribute more liberally to the Republican campaign fund. In this letter Mr. Foster quoted a letter written by a Republican United States Senator in which the Senator said that the manufacturers were getting practically the sole benefit of the tariff and that if the manufacturers expected the Republican party to maintain the protective tariff for their benefit they must come across with contributions to the Republican campaign fund, and further stated:

If I had my way about it I would put the manufacturers of Pennsylvania under the fire and fry the fat out of them.

Is it not a fact that the leaders of the Republican Party for more than 50 years have in every campaign demanded of and received from the manufacturers enormous sums of money to finance Republican campaigns?

Mr. GARNER. I am sure I heard about it, but I have been living in recent times and listening to so much of what is occurring now, that I do not always recall these things. It has been the history of the Republican Party, my dear Mr. LOZIER, and that is why I object to their protective tariff system. It is not that I do not want to give adequate protection to American labor, in order that they may have American standards of living, for I believe in that as much as anybody, but it is the method of service that the Republican Party renders to special interests that I object to, and it will always be done. I do not doubt that I can select 15 Members on the Republican side of the House, able and honest, and put them in a room and give them the hearings, and have them bring out a bill that I am willing to vote for, but when you put these men in a room and tell them to write the bill and the contact comes

between them and the interests it is too strong for them so that they can not withstand it.

The political organization is of such character that these men, honest men, can not withstand it, and they will be overcome by political expediency or be convinced against their own judgment. That is my objection to their policy.

I want now to refer just a moment to the "leopard" spots that my friend from New York speaks of. He is as high a protectionist as there is in the House. I think he gave the best illustration of his idea about protection that I ever heard, and if you look at the hearings I am sure you will find it. I guess it is there yet. Somebody asked him how high he would put the tariff wall around America, and he said that he would put it so darn high that the first importer that got over it would break his neck. He speaks about the leopard spots.

The leaf-tobacco people made out as clear and complete a case as it was possible to make out on behalf of the farmer. They were not manufacturers. I will not say that they were "hill billies," but they were log-cabin folks; they were people who worked with their hands, and they told their story in a plain, unvarnished way.

They made out a case. There is no doubt on the face of the earth about it. I suggested that we give them relief. The tobacco growers of Pennsylvania, Wisconsin, and Ohio were afraid that if you increased the duty on the leaf it would increase the cost of the 5-cent cigar to where they would have to sell it for 6 cents, and they feared they would lose the sale for their filler tobacco. That was the only contest—the contest between the Ohio, Pennsylvania, and Wisconsin tobacco growers against a protective tariff for the tobacco farmers who produced the wrapper. Those who needed the protection came from Georgia and Florida. The people who did not want the protection were from Pennsylvania, Ohio, and Wisconsin.

Do you know who made up the bill on that schedule? A Representative from Pennsylvania, one from Ohio, and one from New York. Gentlemen, that is what I complain about. That is not the spirit of fair play. That is the spirit of selfishness, so characteristic of the tariff; nothing but selfishness and local conditions in making up the tariff. That is demonstrated in many ways otherwise. It is demonstrated on hides and leather and on shoes.

If you put a tariff on shoes, it is not going to do the shoe manufacturer any good, any more than any tariff you put on corn in this bill will do the corn grower any good when you leave tapioca and blackstrap molasses on the free list. You pretend to help the farmer when you leave his competitor free to take this market. It is all camouflage. You will find numbers and numbers of other articles in this bill where that same spirit is shown; but when you come to the cement makers on the Hudson, where New York has two Representatives, and that little bunch up in New England, it is a shame to have the foreigner landing cement up along the Hudson. As you raise the cost, you will raise the level of price. Have you heard it? I have heard it. I think it is sound economic doctrine. When you raise the cost price of any commodity you raise the level of the selling price. In the same breath, while you are trying to protect the cement men along the Hudson in anticipation of the next campaign, you say the American people are not going to pay any more for it.

The shingle industry also is local. Nobody is interested in it but Brother HAWLEY and Brother HADLEY. God knows I would rather have them make up the bill than these other fellows. [Laughter.] If you had had RAMSEYER and HAWLEY and HADLEY to do it, it would be a far better bill than it is. They give them a tariff on shingles but they decline to give cotton any tariff. Why do not you give cotton a tariff? I can tell you the reason why. It is because the manufacturers who use cotton as raw material did not want you to give it to them, and you are afraid to go against their advice.

Gentlemen, I am going to discuss the provisions of this bill from time to time when I get a chance. I want to discuss it in detail, paragraph by paragraph, to show the changes in it.

There is not a man in this room of sufficient mental and physical strength who is able to sit down and analyze this bill and then tell the economic effect of it within three weeks to save his life. There is not a man living who can explain the economic effect of this bill in three weeks. Yet after four months' consideration in committee we are called here and asked to pass it.

Some on the Republican side say we are going to pass it by Saturday night a week. If you are going to pass it then, you might as well pass it by Saturday night of this week. Why take another week on it if you are going to cut off all intelligent discussion? Why not just say, "We have got the votes; the bill is satisfactory." I invite you to do it if you are going to camouflage and give no consideration to it. I would like for the

leader of the Republican side to send out his petition and put the bill on its passage to-morrow. [Applause.]

I do not believe in fraud or misrepresentation. I believe in candor and frankness, not pretense, in considering this bill.

You say, "We are responsible, and we are going to pass it." I solicit of you at least honesty in the consideration of it. You should consider it according to the rules of the House and not put it on its passage without free and full discussion. [Applause.]

The CHAIRMAN. The gentleman from Texas [Mr. GARNER] has used 1 hour and 10 minutes.

Mr. HAWLEY. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. MICHENER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill (H. R. 2667) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE TO PRINT

Mr. TILSON. Mr. Speaker, I ask unanimous consent that during the consideration of the bill H. R. 2667 all Members of the House may have the right to extend their own remarks in the RECORD and for five legislative days after the disposition of the bill in the House.

The SPEAKER. Does the gentleman desire to include both general debate and debate under the 5-minute rule?

Mr. TILSON. Yes; all debate.

The SPEAKER. The gentleman from Connecticut asks unanimous consent that all Members of the House may have the right to extend their own remarks in the RECORD for five days after the conclusion of the consideration of the bill.

Mr. GARNER. Does that include debate under the 5-minute rule?

Mr. TILSON. Yes; all debate.

Mr. GARNER. Is there to be debate under the 5-minute rule?

The SPEAKER. Unquestionably. The Chair believes in protecting the debate under the 5-minute rule.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Craven, its principal clerk, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 4. Concurrent resolution to print the tariff act of 1929 as reported to the House of Representatives, together with the report thereon, as a House document.

MUSCLE SHOALS

Mr. ALMON. Mr. Speaker, I ask unanimous consent to extend my remarks by inserting in the RECORD an article from the Florence Times-News in regard to the amount of power generated at the Muscle Shoals Dam and the amount of power sold during the last month.

The SPEAKER. The gentleman from Alabama asks unanimous consent to extend his remarks by printing an article on the power developed at Muscle Shoals. Is there objection?

There was no objection.

Mr. ALMON. Mr. Speaker, under leave of the House to extend my remarks I present an interesting article from the Florence Times-News showing that all but 2 per cent of the available power at Muscle Shoals went to waste in April, and how the farmers are suffering by the failure of Congress to put Muscle Shoals in operation.

The article is as follows:

POWER SALES IN APRIL ONLY 2 PER CENT OF AVAILABLE

According to the records of the Government engineers in charge at Muscle Shoals the total available power at Wilson Dam during the month of April, 1929, was 150,652,100 kilowatt-hours. Of this 3,046,000 kilowatt-hours was sold for general distribution. The power sold was 2.021 per cent of the power available during the month and the remaining 97.979 per cent was allowed to waste over the spillways.

There is no available market for the enormous amount of power allowed to go to waste, and it is apparent that the only profitable use that can be made of the power is in the manufacture of cheaper and better fertilizer for the farmer.

This is a farm-relief proposition which has passed the theoretical stage. An enormous tonnage of fertilizer is being made in foreign countries by the same process for which the plants at Muscle Shoals were constructed. This cheaper and better fertilizer is being used by

farmers of the leading agricultural nations of the world in competition with American farmers who are paying much higher prices for fertilizer.

To illustrate what the operation of the Government properties at Muscle Shoals in the production of fertilizer would mean in the way of farm relief, the small cotton farmer is now paying \$62 per ton for Chilean nitrate containing 15½ per cent nitrogen. This grade of Chilean nitrate contains 310 pounds of nitrogen per ton, and the nitrogen content is the only part of the ton which has any value to the farmer.

The amount of power required to manufacture 310 pounds of nitrogen by the cyanamid process, as shown by statistics of the Department of Commerce at Washington, is 1,455 kilowatt-hours. This amount of power, figured at \$17.52 per kilowatt-year, or 2 mills per kilowatt-hour, would cost \$2.91. Raw materials and other costs, including 8 per cent profit to the manufacturer, in the fixation of 310 pounds of air nitrogen at Muscle Shoals would amount to approximately \$15.75, making a total of \$18.66, which would be the cost to the farmer f. o. b. Muscle Shoals.

In the discussions of Muscle Shoals during the past eight years there has been a very strong and influential group who have urged that Muscle Shoals power be used to reduce the rates paid by power consumers. Let us compare the savings to the small farmer with the savings to the small power consumer:

The power required to manufacture 310 pounds of nitrogen, figured at the present commercial rate paid by the small power consumer, using power 10 hours per day, would amount to approximately \$36.38. It is claimed by those who would make a power proposition of Muscle Shoals that the above cost could be cut in half. Granting, for the sake of argument, that their claims are true, the power consumer would save \$18.20, while the small farmer would save \$43.34.

No one has yet claimed that the small power consumer is more in need of relief than the farmer.

Muscle Shoals should be used in the manner provided for in the act of Congress authorizing the construction of the properties at that location.

The farmer is in great need of relief and should be considered first. There is an enormous amount of potential power which can be made available for other purposes in the Tennessee River and its tributaries. In fact the total power available at Wilson Dam during the month of April, as shown above, is, according to surveys made by the United States engineers, only 3.4 per cent of the power which can be developed in the Tennessee River Basin.

COTTON BAGGING VERSUS JUTE BAGGING

Mr. FULMER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on my bill (H. R. 196), the cotton tare bill, and with my remarks include a small part of the hearings before the Agricultural Committee on the bill.

The SPEAKER. The gentleman from South Carolina asks unanimous consent to insert his remarks in the RECORD on a bill introduced by himself and also a portion of the hearings relative thereto. Is there objection?

There was no objection.

Mr. FULMER. Mr. Speaker and gentlemen of the House, for the benefit of Members who are receiving so much propaganda from the manufacturers and handlers of jute bagging against my net weight tare bill, H. R. 196, I am going to place in the RECORD some real facts as to the great need of the passage of a net weight tare bill at this or the coming session of Congress.

Perhaps it is speculation that fixes the price of cotton on the New York Cotton Exchange, but the buying agencies of the textile mills of America and Liverpool fix the price based on the New York Cotton Exchange for the cotton that they spin. While a great many farmers, even in this enlightened age, think they get paid for bagging and ties placed on their cotton, it is a known fact that the manufacturers of cotton figure off freights, storage, insurance, tare (bagging and ties), waste, and so forth, in making a price for their lint cotton requirements. Is there a Member of the House who believes that a cotton mill would pay 20 cents a pound for 25 or 30 pounds of jute bagging and ties which would amount to \$5 and \$6, when this same bagging and ties only cost about a dollar and a half and can not be spun along with cotton, but is usually thrown on the waste pile, except perhaps the bagging is resold for a small amount? Any honest jute-bagging manufacturer, as well as cotton shippers, will tell you that the mills figure off the bagging and ties in making their price.

I would be glad if you will get the hearings before our committee on this legislation during the Seventieth Congress and read same.

SENATOR RANDELL

On February 4, 1929, Senator RANDELL, of Louisiana, appeared before the Ways and Means Committee requesting that a tariff be placed on jute and jute products. I am going to

quote at this time a part of his statement. The Senator is a cotton farmer as well as a very capable Senator:

Mr. MARTIN. Senator, do you think that cotton bagging is equal in value to jute bagging?

Senator RANDELL. I am satisfied, sir, that cotton bagging is better than jute. The Agriculture Department has tested it, and, gentlemen, there is no doubt that the strength of the cotton is greater than that of jute; there is no doubt that the durability of cotton is greater than that of jute. It answers every purpose better than jute.

Mr. COLLIER. Because of your great experience in the cotton country—I think that like most of us you are a cotton farmer yourself.

Senator RANDELL. I am a cotton farmer.

Mr. COLLIER. I have been informed by one of the largest sellers of bagging that the average price of this bagging is about 12½ cents a yard which at 6 yards would cost the southern farmer about 75 cents to wrap a bale. There are 6 yards to the bale. That would be 12 pounds of bagging in that bale which goes into the weight of the bale of cotton. In other words, he would be paying 75 cents for his bagging and at 20 cents a pound for his cotton, he would get back \$2.40 from his cotton, whereas if he used the cotton bagging which weighed just half that much and paid the same price for it, he would get back only \$1.20. Have you investigated that?

Senator RANDELL. I have investigated it very carefully. In an ordinary bale of cotton, the tare of the steel ties and the cotton ranges about 23 to 24 pounds to the bale. Does any human being imagine, especially a man of your great intelligence, sir, that the mills of this country pay 20 cents a pound for that tare, those rusty ties, and that bagging? Of course, sir, when they buy a bale of cotton weighing 500 pounds, they take into consideration the fact that 23 or 24 pounds of it is useless bagging and useless iron ties, and they fix the price accordingly.

How do the European buyers act? They place upon it a tare of 6 per cent and when that cotton leaves an American port to go to Europe, 6 per cent on the weight is deducted, and a bale that weighs 500 pounds is paid for at the rate of 470 pounds. They deduct 30 pounds for tare, and our cotton shippers knowing that, that they are going to do that, and in order not to lose the difference between the 24 pounds of bagging and ties, actually placed on the bale and the 30 pounds that the Englishman is going to deduct, add a patch that weighs 6 or 8 pounds.

My friend, Mr. GARNER, knows exactly how they do it.

So that when that bale of cotton reaches Europe, it weighs 30 pounds or more of actual tare. When the cotton comes from India or from Egypt or any of those countries, the custom of the trade abroad is that they sell by net weight and deduct the bagging and ties. Ah, Mr. COLLIER, that is a fallacy that has been fooling a number of our southern people for a good while and I am trying to correct it, and I hope you are going to enable me, for the southern people of the South, to be honest, to sell the commodity that the mills spin, to sell the cotton by the net weight.

When you buy a keg of nails, sir, you get 100 pounds of nails. They do not charge you for the 25 or 30 pounds that the keg weighs. Of course not.

Mr. CRISP. Senator, in order for this plan to be effective to protect the cotton farmer and the textile manufacturers, the tariff would have to be sufficiently high to be practically an embargo on the importation of raw jute and burlap, would it not?

Senator RANDELL. Pretty nearly that, sir.

Mr. CRISP. If that were true, about how many bales of American cotton do you estimate it would take to manufacture the wrappers for cotton bagging and for the grain industry, the wholesale houses, and others that now use bags some of which are cotton and some burlap?

Senator RANDELL. For all the purposes for which jute is used—and you omitted one very important item, in my judgment, to wit, twine—for containers of every kind and sort, for every imaginable kind of groceries, for fertilizers, for cement, and for bagging to wrap our cotton, from the best information I have, sir, it would be about 1,500,000 bales of cotton per annum. Of course, everything in the grocery line requires twine to tie things. That is a simple name for it. It takes an enormous quantity of that.

Mr. CRISP. I have heard it estimated at from 1,000,000 to 1,200,000 or 1,300,000 bales.

Senator RANDELL. There is a difference of opinion. I was just going to add that even though there be some mistake on that, Mr. CRISP, if we could get a market for 1,000,000 bales of our cotton, that would add 2 or 3 cents a pound to the price, and that would be a wonderfully beneficial thing to the cotton grower, and, I would like to add, would not hurt the ordinary consumer.

Mr. CRISP. That was the next question I was going to ask you. If cotton were spun in this country to meet that requirement, which would, of course, reduce the surplus or carry-over, how much would it increase the price of cotton to the farmer per pound?

Senator RANDELL. In my judgment a minimum of 3 cents a pound.

Mr. CRISP. While some of the farmers have the opinion that they are making something on account of selling the bagging and ties, I do not agree with that.

Senator RANDELL. They are just fooled.

Mr. CRISP. The price, of course, is fixed on the net weight. Then you think that if Congress should pass such a law as you are advocating the farmer would receive a large benefit by virtue of getting a higher price for his cotton?

Senator RANDELL. Yes, sir.

Mr. CRISP. And that benefit would overcome any loss or additional burden that he might have to undergo by reason of paying a higher price for bags, wrappers, etc.

Senator RANDELL. Absolutely, Judge CRISP; not only that, but the manufacturers of America who sell to the cotton growers would find a market for many more millions of dollars' worth of their products.

Mr. CRISP. Senator, is it not a fact that Ludlow & Co. are the greatest manufacturers of cotton bagging, etc., in this country, and they have one or two mills in India where they manufacture jute and bagging in India at Indian wages, and bring it into the United States in competition with the industry in this country?

Senator RANDELL. They have a wonderful mill on the Hugli River, about 17 miles below the city of Calcutta. I have got pictures of it here. It is a perfectly beautiful place—100 buildings there—railroads, wharves, and docks; everything, sir, and they bring not only jute but they make enormous quantities of burlaps and bring them in in competition.

Now, let us see what Mr. George Beveridge, president of the L. H. Gilmer Co. of Louisiana (Inc.), says about who pays for bagging and ties. On page 3 of the hearings before the Agriculture Committee, I quote the following:

Mr. BEVERIDGE. Now, gentlemen, as a manufacturer using the cotton and buying it, I take this position: Why should the cotton mills of this country be penalized by having to buy their cotton gross weight, on which the average tare per bale is 25 pounds or 5 per cent of the weight of a bale of 500 pounds, as against the English and other continental mills to get an allowance on cotton that they buy in this country of 6 per cent or 30 pounds per bale for tare? On that basis these mills are buying their cotton net weight while the mills in this country have to buy their cotton gross weight, which means that when they pay 20 cents per pound and the weight of bagging and ties, 25 pounds, are included they only get 475 pounds of cotton, so that the actual cotton they receive costs them 21 cents per pound while the foreign buyers' cotton only costs them 20 cents per pound. That being so, it will readily be seen that cotton sold to the mills net weight will bring the grower 1 cent per pound more, which will offset the difference between selling net weight as against gross weight.

Mr. FULMER. In other words, the old method of selling cotton in the United States is on a tare allowance on all cotton exported 30 pounds to the bale?

Mr. BEVERIDGE. Yes, sir.

Mr. FULMER. And we have various methods and rules of computing the tare in the United States from 24 to 25 and 30 pounds. In the meantime the producer is allowed to put on about 21 pounds?

Mr. BEVERIDGE. Yes, sir.

Mr. FULMER. And between that 21 and 30 pounds the exporter patches on the difference?

Mr. BEVERIDGE. Yes, sir.

Mr. FULMER. And all of this excess bagging brings about tremendous loss in freight?

Mr. BEVERIDGE. Yes, sir.

Mr. FULMER. Now, the farmer under this method can not afford to cut the weight of his bagging and ties inasmuch as all cotton is sold on a gross-weight price basis, because this allowance has been taken off of the price of cotton, when the price is made on the tare allowance of the 25 or 30 pounds?

Mr. BEVERIDGE. Yes, sir.

Mr. HOPE. Why can not the mills in the country buy cotton net?

Mr. BEVERIDGE. You could not expect the importer to do that when he is making 1 or 2 cents out of the extra patching. He gets the excess and the producer loses, because his price is based on 30 pounds loss.

Mr. HOPE. In what part of this country are the prices based on that?

Mr. BEVERIDGE. All over the country. The present spot market in New Orleans—

Mr. HALL. I want to know what you mean by "patching"; for instance, a bale of cotton weighs 493 pounds net. In order to bring that up to, say, 500 pounds, do you mean that they pull out from some other broken bale a handful of cotton and put on there?

Mr. BEVERIDGE. The cotton in this country, when it goes into the warehouse is in flat, loose bales. When it is exported it is compressed and packed down tight. The English and other mills buy their cotton on an allowance of 30 pounds tare. Therefore, the bagging is already there, and on the sides of the bale is the only place they can put bagging, and they have the practice of just laying on the patches to raise it up to 30 pounds.

Mr. ASWELL. I want to clear up one question. May I illustrate this? I have gathered and ginned and sold hundreds of bales of cotton myself in the local market. I always purchased the heaviest jute bagging, because I paid less for it than the price of cotton. When I sold my bale

of cotton to the local merchant he paid me so much a pound and included the weight of the bagging and ties—gross weight; and he bought my cotton on that basis. Now, if you do this and buy and sell in the foreign market on net weights, would I have to sell on net weight?

Mr. BEVERIDGE. You would have to sell on net weight.

Mr. ASWELL. What becomes of the amount I paid for bagging and ties?

Mr. BEVERIDGE. You get a cent more a pound for the cotton.

Mr. ASWELL. How do you know you would get that?

Mr. BEVERIDGE. Well, because, no doubt if it was sold net weight it would automatically increase the value.

Mr. ASWELL. Not automatically at all. Suppose he would say, "You have to deduct your price of the bagging"?

Mr. BEVERIDGE. There is not a mill in the country—

Mr. ASWELL. I am not talking about the mill; I am talking about the merchant in the little town.

Mr. BEVERIDGE. He knows that he is selling it at net weight, and he is buying it by net weight.

Mr. ASWELL. I am only interested in the little farmer, that he is not made to suffer by it.

Mr. BEVERIDGE. No, sir; nobody is made to suffer by it, because he knows he is going to get a cent a pound more. There is no cotton merchant going into any cotton mill in the country with 500 bales of cotton of some grade and offering it 20 cents with the present covering of jute. There are 500 bales net weight and the mill will give him 21 cents.

Mr. CLARKE. Has this trade custom persisted ever since you have been shipping cotton?

Mr. BEVERIDGE. Yes, sir. If you will just pardon me one moment. Early last year the agricultural authorities all over the country took a great interest in this cotton-bagging question. In a letter we sent out to the Louisiana ginners, dated April 19, 1927, we made the following statement:

"Agricultural authorities believe that by wrapping cotton in cotton bagging an increased consumption will result which will mean at least 2 cents more per pound for cotton."

I know of no man who who has given more honest-to-goodness study to this matter than my colleague, Judge SANDLIN of Louisiana. Let us see what he says about it in the hearings before our committee:

Mr. ASWELL. How does he lose the 30 pounds if it gets to Europe?

Mr. SANDLIN. It is figured into the price of cotton.

Mr. FULMER. That is what I have been trying to tell you.

Mr. JONES. Does he get a lower price basis by virtue of that condition of things?

Mr. SANDLIN. Oh, yes. They get a basis of a cent a pound less. That is recognized; everybody knows that. So it is very apparent they are not going to get paid for that 30 pounds.

Mr. ASWELL. We want it in the record, is the reason I asked it.

Mr. SWANK. Does not the farmer now think he gets paid for this 30 pounds?

Mr. SANDLIN. Oh, yes; the farmer does not know anything about it—not many of them. They think they are getting full pay for the bagging and ties; they do not know anything about the 30 pounds being taken off in Europe.

My friends, even bankers have time to look into these matters, and, being interested in farmers who are being robbed, are willing to give of their time and knowledge. I quote some statements made by Mr. J. S. Bartee, banker, Shreveport, La.:

Mr. BARTEE. Liverpool normally should work out to take care of the difference in freight and the tare, which means that the producer on this side, selling cotton gross weight, is getting a lower price for his cotton than he would if that cotton was being sold net weight, so that it would be shipped in the same poundage to England for export. The only way I see it is that the southern farmer is acting as sales agent for the jute people and selling his cotton gross. He thinks he is getting paid for it, but he is not, because he is getting a lower price for his cotton gross weight than it would be sold for net weight, because naturally the cotton brokers can not afford to take 10,000,000 or 12,000,000 bales of cotton and pay for 30 pounds more cotton than they are going to be paid for on the other side.

Mr. JONES. Do you suppose the farmers could be made to understand the matter generally, if you put on net sales weight in this country? Would not a lot of them figure they were just being denied in this measure the extra price they were getting for jute?

Mr. BARTEE. The farmer is a pretty hard person to convince, but he ought to be convinced of the advantage; that he is getting paid for the actual cotton, which automatically increases the price of cotton 1 cent, and the psychological effect of creating a use for cotton.

Mr. JONES. That phase would be easy to carry to him and might offset the other tendency. Do the farmer organizations favor this kind of legislation?

Mr. BARTEE. Yes, sir.

I quote from the statement made by Mr. William I. Holt before our committee, who represents the Department of Agriculture in Europe as one of their cotton men, which comes as real information out of the experience of his work with American cotton:

Mr. HOLT. I think it is largely agreed that what is needed now and what would result in greatest benefit to our producers and everybody in the trade is a net-weight contract which discourages putting more covering on than is actually necessary to protect the bale. Anything in excess of that is an unnecessary charge upon the industry and an economic loss and, for the past 20 years, tables have been compiled about it to show a loss ranging all the way from \$6,000,000 to \$15,000,000 a year.

Mr. FULMER. That comes about in excess freight, insurance, and various other charges, because of the excess bagging put on beyond the amount of actual bagging that should be on the cotton?

Mr. HOLT. Yes; exactly.

Mr. JONES. Then, in order to make the remedy complete, you would not only need to have the same amount of bagging and wrapping, but would also need to have a net-weight basis of sale in this country, would you not?

Mr. HOLT. Yes; that is what I refer to particularly.

Mr. JONES. It would take both plans to complete the remedy?

Mr. HOLT. Well, yes, I think so; to get it on a proper basis. One of the strongest indictments, I think, against the present method of handling American cotton is that in scarcely no two markets are the tare requirements the same. You take the three big futures exchanges—New York, Chicago, and New Orleans—and the tare requirements in no two of those markets are the same. Then you take your local State exchanges, which refers to the gin bale, and there is a variation right straight through almost in every spot market, showing no uniformity with regard to tare allowed. And that leads to all kinds of trouble in the cotton business. When the crop is moving in the early part of the year, compresses frequently become congested for want of space, and they will ask shippers to compress their stock and hold it for shipment, and the shippers will have to tell them they can not do that, because they do not know what will be the ultimate destination, and if it goes to an eastern mill it will take one patch, and if it goes for export it will take another patch.

Mr. HOLT. Here is an item I might mention in this connection. I have before me a statement of the American, Egyptian, African, and East Indian cotton, and the amount of tare put on the American bale is at least double that put on any other bale, practically, and more than double some of it. And they are all better bales; all of those other foreign-grown cottons are infinitely better than our American bale.

Mr. FULMER. Right at that point, Doctor Holt, I would like you to tell these people about the condition of American cotton when it arrives. You have been over there when they have unloaded this cotton and noticed it on the platform, and you know the condition in comparison with the other cottons.

Mr. HOLT. The American cotton, the condition of it when it arrives in Europe, is really considered a disgrace. It is far below the condition of any other cotton. I have talked to European merchants in my work about a better American bale, and they will agree it should be better; but I think anything that is done about it will have to come from this side. And I would like to say that the Egyptian bale is only a 3 per cent bale; the Mexican is 1½ and the African 2½, and there are two bales put up in India, one with a little less than 3 per cent and the other with 2¼ per cent, against approximately 5½ per cent in America.

Mr. WILLIAMS. Why does American cotton arrive in European markets in worse condition than other cotton?

Mr. FULMER. It is because of the type of bagging compared with the types used by other countries. No other country in the world uses jute bagging in covering cotton. Every pound of that is imported from foreign countries into this country, and we are really stifling with low-grade cotton, just like you see over there [indicating]. That is one of the purposes of this bill—to use standard cotton bagging of 4 or 5 pounds on cotton, and that will enable the American producer to use cotton bagging instead of jute bagging. That is one of the purposes of the bill.

Mr. Robert J. Cheatham, Bureau of Agricultural Economics, Department of Agriculture, makes a very interesting statement before our committee. I only quote a small part of his statement and would ask that you get a copy of the hearings and read his whole statement:

Mr. CHEATHAM. Mr. Fulmer has asked me to bring out the point with reference to the economic phases of it. I estimate it would take something like 200,000 bales of low-grade cotton that would be required, on the average, to cover the American crop—of the lightweight cotton bagging—that is, the lightest weight, 12 ounces, or 5 pounds per pattern. That consumption of 200,000 bales of low-grade cotton would have

approximately the same effect on the price level as a reduction of that amount of cotton in the available supply, which economists tell us would amount to one-half a cent a pound, or \$2.50 a bale. You understand that most of this cotton bagging we have been quoting prices on is made from good ordinary cotton.

Mr. FULMER. In other words, the very lowest grade and maybe the best type of linters.

Mr. CHEATHAM. Yes, sir; linters and card waste, which would reduce the cost.

Mr. FULMER. How did the cotton bagging stand up in comparison with the jute bagging in the shipment to Bremen and return?

Mr. CHEATHAM. The cotton bagging, sir, seemed to stand up. The lightest weight, 12 ounces, or 5 pounds per pattern, stood up just as well as the 2-pound jute, we thought, and it looked much better and protected the cotton better from dirt, trash, and other impurities.

Mr. FULMER. And in the meantime that was 5 pounds, in comparison to about 17 pounds of jute?

SOME ADVANTAGES OF TARE STANDARDIZATION

"(1) Savings in the cost of covering materials, in freight, insurance, and other charges on the difference or saving in weight, including the reduction in the cost of ascertaining tare.

"Measured in dollars and cents, this is the greatest advantage of all.

"(2) Saving in storage space. Standardization of tare would permit bales to be compressed and patched at once, without regard to the ultimate market, instead of being held uncompressed.

"(3) Betterment of business ethics and improvements of relations between buyer and seller. These might be classed as intangible benefits, but they nevertheless carry almost as much weight as do the direct benefits.

"(4) Simplification of trading practice. Standardization of tare should simplify price calculations and eliminate much correspondence and accounting necessitated by tare claims and collections. Merchants could obviate the necessity of stocking patches of different weights.

"(5) Standardization of tare should result in some improvement of the appearance of the bale. The bale usually comes from the gin with a little over 4 per cent tare on it. When the shipper gets it, he adds sufficient additional tare to bring the total up to about 5½ per cent, let us say, in the export market. The foreign importer, not to be outdone, tacks on some more tare before delivery to the spinner, the tare finally amounting to perhaps 6 per cent, so that, roughly speaking, there has been added to the bale about 2 per cent during the journey from the farmer to the spinner. The consequent economic loss, measured by the amount of unnecessary bagging, and ties, and the freight, insurance, and other charges paid thereon, has to be borne jointly by the farmer and the consumer.

"Sometimes the farmer, feeling that he, himself, is entitled to some of this leeway between these two extreme tares, puts more than the customary tare on his gin bale. But he seldom gains by this, for it is only by an oversight that the buyer permits the overtare to pass.

"The whole matter resolves itself into this, that each buyer always adjusts his prices in accordance with the amount of tare for which he expects to pay.

"If American cotton were sold everywhere on a true net weight basis, then the price would give the value of cotton per se, and correct comparisons would be possible that are not possible now. (For example, when cotton is quoted here at 20 cents, that is really the price of cotton and tare together, the true price of cotton would be 20 cents plus, about 5 per cent, or, say, 21 cents.)

"Such a method would indicate the true value of cotton itself, would tend to do away with a great deal of juggling of tare, and would dispense with rather complicated methods of price transformations.

"There is reason to believe that cotton exchanges abroad would be glad to buy American cotton, as they do other cotton, on a true net weight basis, if the tare on our cotton were standardized.

"Another advantage claimed for cotton bagging is that it peels off the bale with but little cotton lint adhering to it, whereas jute bagging carries considerable lint off with it. Upon the return of the test shipment from Bremen, 10 bales covered with cotton bagging and 10 bales covered with jute bagging were stripped, and the cotton lint adhering to the two types of bagging was carefully removed and weighed. From the 10 cotton-bagging patterns 6¼ ounces of lint was recovered and from the 10 jute baggings 12 pounds of lint was recovered.

REASONS FOR A NEATER BALE AND NET WEIGHT

"There is considerable demand among spinners and merchants and the trade generally for a neater package for practically every line of merchandise. In fact, it is considered that neatness of package has a definitely beneficial effect upon sales. For years the American cotton bale has been criticized for its ragged appearance upon arrival in foreign markets. Not only are buyers prejudiced by its ragged appearance, but great economic losses are incurred because of the inadequate covering of the American bale."

The booklet entitled "Cotton Tare," printed during the Sixty-second Congress, Document No. 577, will give you more information on the tare subject than you have ever dreamed of. I want you to get a copy of same. If you can not get a copy from the

Department of Agriculture, call on me for one. This book contains cuts of all cotton baled in the various countries, types of bagging, and weights of tare. Letters from American consuls residing in Europe about American cotton condition when landed in Europe, about tare, and so forth. By all means get this book and get posted on how the American producer of cotton is being robbed. I quote from page 39, letter written by D. Cunningham, chairman trade supervision committee, Liverpool Cotton Association (Ltd.):

The planter may think he is getting paid the price of cotton for materials of far less value, but in this he is mistaken, as merchants, warned by past experience, make allowances for this in the price they give, and the final result is that while the planter gains nothing, there is an increase of cost to the spinner. On freight alone to Europe the calculation has been made that the carriage of perfectly unnecessary canvas and bands amounts to £200,000 (\$973,300) per annum.

My committee would urge, and in this they are strongly supported by the International Federation of Master Cotton Spinners and Manufacturers' Association, the adoption of bale standard in dimensions, containing approximately the same weight of cotton, pressed to rather a greater density than at present, and covered by a better make of canvas, lighter in weight.

INSURANCE ADVANTAGE ON HARD-PRESSED COTTON

The rates of insurance given by the Royal Insurance Co. for cotton stored at the Manchester docks are as follows:

Ship canal warehouse, nonfireproof: If hard-pressed bales, only 7s. (\$1.70) per cent per annum; American cotton, 10s. (\$2.43) per cent per annum.

In fireproof warehouses: Egyptian (hard pressed), 7s. (\$1.70) per cent per annum; American cotton, 9s. (\$2.19) per cent per annum.

The following statement should convince every southern Congressman we should consider net-weight legislation making 15 pounds of tare the maximum, real farm relief legislation, and pass same at the extra session. How much longer will we listen to the Jute Trust?

E. H. L. Mummenhoff, vice consul general, Hamburg:

In a tour of the docks made for the purpose of preparing this report the writer walked through acres of handsomely packed American goods of every description, which had arrived without incident, emerging finally into the cotton section, where the floor was strewn with quantities of loose cotton, and between stacks of bales, no two of which had the same shape nor were baled in precisely the same way. Even the best bales which were intact showed where hooks had torn the gunny sacking, tearing out with it more or less fiber. In many cases the iron ties were broken, and a large number of bales had entirely collapsed. In a corner of the building a great quantity of loose cotton had been swept up from the floor, sufficient in all to make a number of bales itself. The loss of cotton in consequence of poor baling from farm to factory must be enormous in the course of a year. My informants here state that this criticism applied to not only cotton but to waste and linters as well.

American linters arrive in just as bad a condition as cotton, with the exception that there is, as a rule, more waste of linters than of cotton.

William Thomas Fee, American consul at Bremen, Germany, gives us the following information:

In further compliance with the department's instruction, I went to the harbor and witnessed the unloading of a steamer carrying 11,000 bales of American cotton. Generally, it was in a very fair condition. However, the jute wrapping was in most instances badly torn and ragged, which gave the cotton a bad appearance and exposed it to injury. But the cotton ties were, with very few exceptions, intact, and the bales generally were in unusually good condition.

I have witnessed other unloadings where the bales were in a much worse state and much loose cotton was being thrown about.

Col. Harvie Jordan, Greenville, S. C., who is not only a large cotton farmer but is the active secretary of the American Cotton Association:

There is perhaps no subject of more vital economic importance to the cotton industry than that of reforming the baling and handling of American cotton.

Cotton is the most valuable monetary product of the Nation and constitutes the leading commodity in our international commerce and in the textile industries of the civilized nations of the world.

Notwithstanding these important facts, the American bale of cotton is the most wastefully handled package which enters the channels of commerce in any country. The plantation bale of to-day is the same type of package turned out from the gins 50 years ago.

In the language of foreign spinners, the American bale of cotton has come to be the laughing stock of Europe. It typifies the days of the tallow candle and stagecoach.

The annual losses incurred by the growers and spinners of American cotton as a result of continued adherence to our present primitive and

wasteful system of baling amount to at least \$150,000,000. In 10 years this accumulated loss would pay for a crop of 12,000,000 bales of cotton at 25 cents per pound. There is no other organized industry in the Nation that would permit a continuance of such waste in a highly valued product without applying the necessary economic reforms.

The American bale carries the highest domestic and marine insurance charged for the protection of the staple of any cotton-growing country in the world. The tare on American cotton bales is far in excess of tare applied to cotton bales in other leading cotton-growing countries, and jute bagging has always been most objectionable to domestic and foreign spinners.

Mr. J. M. Bowen, president Spot Cotton Merchants' Association, New Orleans, La.:

Every man who is a cotton man knows that when excess bagging is put on a bale of cotton that the farmer is the man who finally foots the bill, because when a cotton man buys or sells cotton he figures the amount of tare on it and it gets right down to a net basis. The excess freight and excess insurance that is paid on surplus tare is taken out of the bale itself, which means that the farmer foots the bill.

There is no question that the disreputable appearance of our bales has given American cotton a black eye in Europe, and the sooner we recognize this and send to Europe a package that is comparable to the package that is put up elsewhere just that much sooner are we going to be on competitive basis. There is no question that legitimate exporters suffer from excess tare. Also there is another thing that gives the American bale of cotton and the American shipper a black eye and that is the fights an exporter has with his customers over tare claims. When you fight a customer you get in bad with him, and very often claims that the exporter views as unjust are paid as a matter of policy. There are other people who ship cotton and patch it heavily but never pay a claim, and that character of merchant is a very unwelcome competitor for the honest legitimate merchant.

Now, in regard to tare rules, that point has been mentioned. Nearly every port and receiving center of cotton, mill center, has a different method, a different rule for determining the tare on bales that reach that particular point. The rules in the Carolinas, in New England, Liverpool, and others, are all different. So far as the American farmer is concerned I feel that these rules having been made by the merchants and the mills at the points that receive the cotton naturally favor the receiving points and operate against the farmer, and I think that is something we can correct and should correct. Why the American farmer and American exporter should have to abide by foreign-made rules is something absolutely beyond my ken, and we have had to do it largely on account of our own fault because we have put up our cotton in a bad package.

I would like to bear out what Mr. FULMER had said. I think if the Department of Agriculture is going to undertake the proposition of standardizing tare, we might as well swallow the cherry at one bite; I think it will be as easy a matter to standardize tare both at the gin and for domestic or export shipping as it would be to standardize it at the gin alone. I think Mr. FULMER is right when he states that if we attempted only to standardize tare at the gin, it would create a feeling on the part of the farmer, and justly so, that he was being paid only for lint, whereas the man who bought his lint was getting 25, 30, or 35 cents a pound for something that was put on that lint and that cost him 4 or 5 cents a pound. That is one reason. Another reason is that it will increase the price of new bagging very much, and I do believe this, that an article such as a bale of cotton, which is the most necessary commodity raised in the world to-day next to wheat, and which is worth approximately \$125 to \$150 a bale, is entitled to a new covering. I do not think it ought to be wrapped up in second-hand covering. I think it ought to be wrapped in a new bagging. I think it is entitled to that consideration, and I think that the cost of that bagging is insignificant as compared with the value of the article. I hope when the Department of Agriculture undertakes to standardize the tars on cotton bales, that standardization will extend from the time the bale of cotton is ginned until the time the bale of cotton reaches its ultimate destination, which is the mill, whether that mill be in America or in Europe.

Mr. MARTIN AMOROUS. I just learned here to-day, and I am 66 years old, that we farmers have to pay the cost of "tare." None of my friends who ever bought any cotton from me, nor did my neighbor, ever tell me anything of that sort. On the contrary, since the price has been so low, below the cost of production the last few years, we thought that was the only way we were making a profit on cotton. [Laughter.]

Mr. S. Odenheimer, representing Hon. Harry D. Wilson, commissioner of agriculture for the State of Louisiana:

The producer sells his cotton by gross weight, but foreign countries buy it by net weight and foreign countries deduct from a 500-pound bale 30 pounds, or they deduct 6 per cent for tare. So, since the price of cotton is made in Europe or in foreign countries, in countries to which cotton is exported, they take off 6 per cent for tare, and the farmer does not get paid for that bagging and ties. Thirty pounds is taken off of a 500-pound bale. Now, there again the cotton farmer loses, because he only has 21 pounds of bagging and ties on his bale, and 30 pounds are

deducted. So he loses 9 pounds, which at 20 cents a pound is \$1.80. Now, who makes those 9 pounds? The shipping interests make those 9 pounds. The exporter of cotton sees that every bale of cotton he ships contains at least 6 per cent of bagging and ties; so when he buys a bale of cotton from the farmer—

Mr. FULMER. You stated that the mills in buying cotton bought cotton fiber and not bagging and ties.

Mr. ODENHEIMER. Yes.

Mr. FULMER. Then, as a matter of fact, the price, although it is on a gross basis, it is fixed to eliminate the bagging and ties?

Mr. ODENHEIMER. Yes, sir.

Mr. ANDRESEN. Did you ever know of any instance where the producer himself has ever been able to fix the price of any agricultural product? Mr. ODENHEIMER. No; I do not know. There is a very good reason for that. Everybody else in the United States is combined; but the producers, unfortunately, will not combine.

Mr. ANDRESEN. The mills and foreign buyers are interested in buying cotton just as cheap as they can?

Mr. ODENHEIMER. Yes, sir.

Mr. ANDRESEN. Now, I am afraid you are running up against a proposition of this kind, in case this bill becomes a law, that the cotton producer will be left holding the sack, paying for the bagging he puts on there, because the foreign buyers and the millers are going to buy just as cheap as they can, and the farmer will never have an opportunity to include the tare as part of his price, or get anything for it.

Mr. ODENHEIMER. You might put it that way, but that is entirely unreasonable.

Mr. ANDRESEN. I do not think so.

Mr. ODENHEIMER. You see, the mills of the United States and the mills all over the world only pay for the net cotton, the actual fiber, and the price is fixed on the net cotton. I am also interested in a cotton mill. When we buy cotton that weighs 500 pounds gross we know we only get about 427 pounds, and we fix, in our minds, the value of the cotton.

Mr. ODENHEIMER. Then, again, I want to call attention in there to the figures they have, of how much money can be saved for the South by adopting cotton bagging. It amounts to about \$15,000,000 on a 13,000,000 bale crop.

Mr. ADKINS. Who is responsible for not using cotton bagging now?

Mr. ODENHEIMER. The cotton trade; the cotton trade objects.

Mr. ADKINS. Why does the cotton trade insist upon using jute to the detriment of the cotton grower? They are certainly interested in it.

Mr. ODENHEIMER. The cotton trade does not object to this bagging; they like this bagging, because they make 7 pounds on every bale that is used.

Mr. C. B. Howard, general sales manager American Cotton Growers' Exchange, Atlanta, Ga., appeared before our committee and certainly a man holding the position that he does, representing the farmers' end of it, ought to know whereof he speaks:

Mr. ANDRESEN. I just want to see if I have this proposition straight. When a cotton farmer goes in and sells his cotton he gets paid the cotton prices for everything he has in and on the bale; for the cotton, the bagging, and wires; when the exporter sells abroad the tare is deducted for the bagging and for the ties. That is correct, is it not?

Mr. HOWARD. The first part I do not think I quite caught.

Mr. ANDRESEN. The farmer gets paid for his bale of cotton.

Mr. HOWARD. Gross weight?

Mr. ANDRESEN. Yes.

Mr. HOWARD. Yes.

Mr. ANDRESEN. At the cotton price?

Mr. HOWARD. Yes.

Mr. ANDRESEN. But the exporter is the man who loses, because the tare is deducted from his price?

Mr. HOWARD. Oh, no; he sells gross weight, too?

Mr. ANDRESEN. Who, then, stands the cost of the tare?

Mr. HOWARD. He does not lose anything.

Mr. ANDRESEN. Who stands the loss of the tare when it is sold in export.

Mr. HOWARD. This unnecessary tare, naturally, in the last analysis comes out of the price of cotton.

Mr. WILLIAMS. Comes out of the farmer?

Mr. HOWARD. Comes out of the farmer.

Mr. ANDRESEN. You think there will be a change in the price of cotton if it is sold net weight?

Mr. HOWARD. Yes; the farmer will get more net for cotton if the waste is eliminated.

You can tell from the following that Mr. Frank M. Inman, of Williamson, Inman & Co., Atlanta, Ga., thinks that farmers are robbers and that he gloats over the fact that he is in a position to see that farmers only get 21 pounds of tare while he patches on about 9 and is able to "get by with it":

Mr. FULMER. Would you mind stating why the farmers and ginnermen put on all that bagging and ties?

Mr. INMAN. Because they are selling it at the price of cotton.

Mr. FULMER. They used to think so, but they are learning a few things now.

Mr. INMAN. Gross weight. That is why I am here representing this organization.

Mr. FULMER. Would it not be well to add to that because they realized the shipper gets 26½ or 30 pounds, and they are only allowed 21 pounds?

Mr. INMAN. No, sir; I do not think they realized anything except they could get by with it.

Mr. FULMER. I deny that statement they are entitled to it, but are being robbed out of from 4 to 9 pounds on every bale.

Mr. INMAN. No; because they were putting on more than the shipper could pass along.

Mr. FULMER. Then, why did the shipper patch on 4 or 5 pounds after that?

Mr. INMAN. The terms on which cotton is sold is 22 pounds for flat cotton, uncompressed cotton—22 pounds to the bale, 24 pounds on the compressed bale, and 26 and a fraction on export cotton. Under the terms on which the bale is sold, if it does not carry enough tare, the shipper adds enough tare to make it up to the standard requirements, to meet the competition of other shippers.

Mr. FULMER. And you get paid for that at cotton prices?

Mr. HOPE. Your organization is in favor of net weight but you are opposed to legislation?

Mr. INMAN. We are in favor of the principle of net weights; yes.

Mr. HOPE. Does your organization have any plan by which they think this principle can be carried out without legislation?

Mr. INMAN. We have no plan.

Here is another cotton shipper who is satisfied with his position. Why, he and his colleagues are the fellows who handle the cotton while farmers spend the summer in the mountains. You note that he states, "We have the money, we have the organization, and we handle the crop." I think he is right, and that is one of the reasons I am trying to pass legislation so as to let the farmer in on the handling of his cotton. Mr. McCoy's organization is the one that has controlled the baling of cotton all these years, and objects to legislation, stating, "Leave it to us, we will finally work out what you are driving at."

Mr. L. Brown McCoy, Charlotte, N. C., representing the Atlantic Cotton Shippers' Association before our committee:

Mr. McCoy. We merchants are the ones who handle that cotton and make possible the marketing of it. We have money, we have the organization, and we handle the crop, and there is always good competition in the marketing of the cotton of any farmer who comes to the market.

Mr. FULMER. You stated you are allowed 26½ pounds in foreign countries. At 25 cents per pound that would be about \$6.62 for bagging and ties. That bagging and ties cost originally 85 cents, or not over a dollar. Do you think any cotton mill would pay \$6.62 for a dollar's worth of bagging and ties that they can not spin or use at all in their mill?

Mr. McCoy. As Mr. Inman explained, it is a matter of price all the way around. We have a line on the mills, we know what mills are in the market, and we know there are a dozen merchants working on that order. They can all add that tare just as well as we can, and, as Mr. Inman stated, we do not put that in our calculations any more; we just pass it on.

Mr. FULMER. You do not have to, because the mill takes care of that when they fix the price to you, knowing that the bale will carry 26½ pounds, bagging and ties that they can't use.

Mr. McCoy. We are strongly opposed to legislation, especially along the line of anything that will turn the whole thing upside down again, as net weight would do; because the rules all over the world, in foreign countries, in this country, and everywhere else, would enter in there, and after all these years we have them all boiled down and have them reasonably well in mind as to how they work in different places, and if this net weight is put in that will all have to be changed again.

Mr. FULMER. Is it not a fact this is the only country that sells on gross weight?

Mr. McCoy. I do not know.

Let us quote here a small part of the statement of the president of the American Cotton Shippers Association, Mr. J. M. Locke, who resides at Muskogee, Okla. A committee representing his association has been advising the association for years that a net-weight basis should be brought about, and yet from year to year we are still putting on from 21 to 30 pounds of disgraceful jute. He even acknowledged before our committee that farmers did not get any pay for the 21 pounds that they were allowed to put on their cotton; but it does not stop there. Farmers lose 9 pounds that are patched on by

Mr. Locke's folks, which is also taken out of the farmer's price, which would be, at 20 cents per pound, \$1.80 per bale, or \$27,000,000 annually:

Mr. FULMER. Do you know Mr. Bowen, of New Orleans, who used to be with the cotton market there?

Mr. LOCKE. I know Mr. Bowen by reputation, not personally.

Mr. FULMER. He appeared in a conference with the Department of Agriculture, February, 1925, outlining the matter of tare. He said, in the last analysis, inasmuch as the cotton merchant did not buy bagging and ties, the cost all went right back to the producer. I can see, as a cotton merchant, how you would not take into consideration the tare, except for your patching, in connection with your price that you might pay the cotton merchant in the interior or the producer, as you base your price on the price that you receive from the cotton mill or from some foreign mill.

Mr. LOCKE. Yes, sir.

Mr. FULMER. Then the mill in making their price to you, they take into consideration the tare, and therefore you do not have anything to do with that?

Mr. LOCKE. Mr. FULMER, my point was specifically directed to the point that the cotton merchant does make a profit on his tare, but it is a profit that is absolutely essential, since it is necessary to put a patch on the bale.

Answering the point that you bring up, I quite agree that, in the final analysis, when the mill buys a bale of cotton they know that they are not going to consume the tare and they figure accordingly.

Mr. FULMER. And when the farmer gets a gross price, naturally he is getting a price less the amount figured off by the mill for the tare.

Mr. LOCKE. Yes, sir.

Mr. FULMER. For instance, 30 pounds in foreign countries.

Mr. LOCKE. Twenty-six and one-half, Mr. FULMER, for the sake of the record.

Mr. FULMER. Say 26½; but Mr. Howard, who has had lots of experience in selling cotton for export, will tell you they figure a little difference in the price, and Mr. Beveridge makes the statement, representing the Department of Agriculture, that in the last analysis it was about 30 pounds; but say 26½ pounds—

Mr. LOCKE. I want to be on record as disagreeing with anything in excess of approximately 26½ pounds for a 500-pound bale.

Mr. FULMER. Twenty-six and one-half pounds, at 20 cents a pound, would be \$5.30 a bale.

Mr. LOCKE. Yes, sir.

Mr. FULMER. For tare that the mills can not use.

Mr. LOCKE. That is correct.

Mr. FULMER. This would show absolutely, if they buy on gross weights, that they fix the price so as to take care of that tare, which amounts to over 1 cent per pound.

Mr. LOCKE. Yes, sir; I quite agree with you. The first effect that the producer is going to see is that when we buy a 500-pound bale of cotton from the producer the buyer is going to sit down and deduct 21 pounds, and then he is going to figure at the contract price.

Mr. FULMER. In connection with that element, Mr. Locke, the thing that we can not explain to the producer to-day is that the cotton merchant is allowed 26½ pounds tare on export cotton, we will say—although I believe we can show it is 30 pounds, and in a great many instances they put on more, because it is gross weight—but the cotton merchant is allowed 30 pounds tare. The farmer in the meantime can put on only 21 pounds. There are 9 pounds tacked on by the merchant at a cost of about 3 cents a pound that the shipper or merchant gets about 20 or 25 cents a pound, according to the price of cotton, which would be \$1.80 a bale direct loss to the producer. The next thing we can not show the producer and the cotton merchant in the interior who is anxious to see the producer succeed is why we should put on 21 or 30 pounds, which means excess freight, extra cost of insurance, with considerable waste all the way down the line, which is absolutely figured out of the producer, which amounts to millions annually, which has been brought out in the testimony, and has been agreed to by everybody that knows anything about the wasteful method of taring cotton.

We are trying to eliminate these expenses on the farmer, and I am sure that he will thoroughly understand that when he is able to use cotton bagging, which would give him a better price and eliminate all this waste, he will be glad to have it.

I quote from the hearings a part of statement made by Mr. Claud H. Hutcheson, Jonesboro, Ga. Mr. Hutcheson, like all the rest of these jute manufacturers, is very much interested in the farmer. You will note that he used to be a large farmer, but had to quit farming because he could not make any money, but will admit that he has grown rich under his new occupation—manufacturing jute bagging and selling to farmers:

STATEMENT OF CLAUD H. HUTCHESON, JONESBORO, GA.

The CHAIRMAN. Please state your full name, your residence, and for whom you appear.

Mr. HUTCHESON. My name is Claud H. Hutcheson, of Jonesboro, Ga.; manufacturer of rerolled bagging for covering cotton. I manufacture

rerolled bagging stripped from the cotton bales, reclaiming that which is being used—reclaiming sufficient covering for 2 to 2½ per cent of the crop. That is my production.

Mr. FULMER. Mr. Hutcheson, you used to run a good big farm yourself?

Mr. HUTCHESON. Yes, sir.

Mr. FULMER. You are not farming now?

Mr. HUTCHESON. No.

Mr. ASWELL. Why?

Mr. HUTCHESON. I can not make any money out of it.

Mr. ADKINS. Do you believe if the importers of jute and the manufacturers of jute bagging did not get any profit out of that particular part of the cotton business that they would be here opposing this bill? In other words, it would not concern a dealer how much the bagging cost the farmer, as they would charge it up to him anyhow. But the motive behind the opposition to this bill is prompted by the profits the importers of jute and the manufacturers of jute bagging get out of that individually, is it not?

Mr. HUTCHESON. Of course, they make some profit; yes.

Mr. ADKINS. What is the motive for opposing this legislation?

Mr. HUTCHESON. Well, I am opposing it because I do not think the farmer would benefit by it.

Mr. ADKINS. Many come here trying to shed crocodile tears over the farmer. But let us get down to cases: You know and I know that the cost of whatever bagging is used is charged back to the farmer. The sole motive behind this bill is not what the cotton bagging is going to cost the farmer but that it will cut out the profits of the importer of jute and the manufacturer of jute bagging; and that is the fly in the ointment, is it not?

I want you Representatives from cotton States who would rather play politics by voting against this legislation, believing that you will be unable to explain to your cotton farmers about the advantages of selling on a net-weight basis and restricting tare allowance not to exceed 15 pounds, which would eliminate the old jute bagging that we are now using, to listen very carefully to what Mr. Jenkins had to say before our committee:

STATEMENT OF JOHN S. JENKINS, JR., NORFOLK, VA.

The CHAIRMAN. Please state your full name and address.

Mr. JENKINS. My name is John S. Jenkins, jr. I am from Norfolk, Va.

For some forty-odd years my father before me and myself have been engaged in the cotton business, and, incidentally, we are also engaged in the manufacture of jute bagging for covering cotton.

This bill has been brought to our attention, and we are very much in accord with Judge Covington's statement in his brief. We are not opposing, primarily, the trading in cotton on a net-weight basis; what we are opposing is legislation to bring that about.

Mr. ASWELL. What is the weight of your jute bagging per bale?

Mr. JENKINS. The 2-pound bagging produces a tare weighing 12 pounds to the bale. That is all we make—only one grade and only one weight.

Mr. FULMER. Does that include the weight of patches?

Mr. JENKINS. That does not include the bagging at the port.

Mr. FULMER. And then the tare, including the patches, will make the tare 26 to 30 pounds?

Mr. JENKINS. At Norfolk the ordinary custom is 4 pounds additional for patching, but by special arrangements they have an option which runs your patches up as high as 6 pounds.

Mr. FULMER. For export?

Mr. JENKINS. In Norfolk; and in Texas, 8 pounds, and at some of the other ports, 6 pounds.

Mr. FULMER. Do you not think it is bad practice to allow 30 pounds for tare when we do not need that amount?

Mr. JENKINS. It comes right back to this, as far as the farmer is concerned: He gets the money for the cotton, because if he puts 30 pounds tare on it the buyer pays him less for it and the mill that buys the bale of cotton with 30 pounds tare on it is invariably buying that cotton just a little cheaper.

Mr. FULMER. In other words, the mill buys its cotton on a net basis?

Mr. JENKINS. That is practically what it amounts to to-day.

Mr. FULMER. You state those losses on account of patching are all done away with so far as the disadvantage to the farmer is concerned. We are not contending anything about that, but the price is made by the mills who spin the cotton, and they make a price to take care of 30 pounds tare. You know Mr. Locke, who is the head of the Cotton Shippers' Association. Let us see what he says. [Reading:]

"Answering the point that you bring up, I quite agree that, in the final analysis, when the mill buys a bale of cotton they know that they are not going to consume tare and they figure accordingly.

"Mr. FULMER. And when the farmer gets a gross price, naturally, he is getting a price less the amount figured off by the mill for the tare?"

"Mr. LOCKE. Yes, sir."

Cotton merchants testified before our committee, and Mr. Beveridge, from the Department of Agriculture, makes the same statement.

I think the following was a slip of the tongue, but should convince any "Doubting Thomas":

Mr. JENKINS. Yes; but we will ask you to consider a cotton mill of North Carolina, buying cotton in the field, pays more for their cotton, with no patching on it, than the man who buys cotton at a mill, where he knows he is going to get compressed-bale cotton with patching on it.

In this statement you will note mills take note in making their price for lint cotton the amount of bagging patched on. Surely, then, you would not contend that mills do not take into consideration bagging and ties as a whole in making their price for lint cotton.

In conclusion, I would like to state that manufacturers of jute bagging are writing cotton-gin men asking them to write their Senators and Congressmen protesting against this legislation, stating that it will cost cotton farmers millions annually. This is a strange propaganda. When did jute manufacturers and the handlers of jute become so alarmed about the farmers' welfare that they must come out and fight the farmers' battles?

I am now quoting from a reprint from the financial journal, Capital, of Calcutta, India, which perhaps will give us some inside information why manufacturers of jute are so concerned about this legislation:

In American currency the total invested ordinary capital (common stock) of jute mills in India is \$50,279,092. Earnings for the last complete year, 1927, were \$20,767,933, or 41.31 per cent, on the outstanding common stock. The average common earnings for the past eight years, 1920 to 1927, inclusive, were \$18,496,198, or 36.79 per cent.

The total market value of these common or ordinary stocks is \$197,535,150, or approximately four times the original investment.

In the meanwhile, my friends, farmers are simply acting as sales agents for the Jute Trust of America at a cost to farmers annually of millions of dollars. The serious question that I want to ask you, my colleagues, is, Are you for the Jute Trust or are you for the farmers? Your vote on this legislation will be the real answer.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. McSWAIN (at the request of Mr. FULMER), until May 15, on account of illness.

To Mr. HARE (at the request of Mr. STEVENSON), for two days, on account of illness in family.

To Mr. WELCH of California, indefinitely, on account of sickness in family.

ADJOURNMENT

Mr. HAWLEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 21 minutes p. m.) the House adjourned until to-morrow, Friday, May, 10, 1929, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

13. Under clause 2 of Rule XXIV, a letter from the Comptroller General of the United States, transmitting report and recommendation to the Congress concerning the claim of Kremer & Hog, Minneapolis, Minn., against the United States (H. Doc. No. 16), was taken from the Speaker's table and referred to the Committee on Claims and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. HAWLEY: Committee on Ways and Means. H. R. 2667. A bill to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes; without amendment (Rept. No. 7). Referred to the Committee of the Whole House on the state of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CRAIL: A bill (H. R. 2740) to authorize the sale of certain lands of the United States to the city of Los Angeles, Calif., to protect the watershed supplying water to said city; to the Committee on the Public Lands.

By Mr. KETCHAM: A bill (H. R. 2741) to amend an act entitled "An act to provide for the further development of agricultural extension work between the agricultural colleges in the several States receiving the benefits of the act entitled 'An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts,' approved July 2, 1862, and all acts supplementary thereto, and the United States Department of Agriculture," approved May 22, 1928; to the Committee on Agriculture.

By Mr. COOKE: A bill (H. R. 2742) to amend section 52 of the Judicial Code of the United States; to the Committee on the Judiciary.

By Mr. DOUGLAS of Arizona: A bill (H. R. 2743) to amend section 4 of the interstate commerce act; to the Committee on Interstate and Foreign Commerce.

By Mr. FISHER: A bill (H. R. 2744) to regulate the use of motor-propelled vehicles of the Army; to the Committee on Military Affairs.

Also, a bill (H. R. 2745) to authorize appropriations for contingencies of the Army; to the Committee on Military Affairs.

Also, a bill (H. R. 2746) to amend section 127a, national defense act, to authorize Engineer officers to attend civil technical institutions; to the Committee on Military Affairs.

Also, a bill (H. R. 2747) to authorize payments in advance for subscriptions to newspapers and periodicals and for certain expenses of military attachés; to the Committee on Military Affairs.

Also, a bill (H. R. 2748) to authorize the erection of monuments or memorials to commemorate the encampments of Spanish War organizations at Chickamauga and Chattanooga National Military Park; to the Committee on Military Affairs.

By Mr. HALE: A bill (H. R. 2749) to equalize the pay and allowances of officers of the Navy and Marine Corps on sea duty or overseas expeditionary duty; to the Committee on Naval Affairs.

By Mr. JAMES (by request of the War Department): A bill (H. R. 2750) to amend section 90 of the national defense act as amended relative to the employment of caretakers for National Guard organizations; to the Committee on Military Affairs.

Also (by request of the War Department), a bill (H. R. 2751) to authorize appropriations for payment of exchange by Army officers; to the Committee on Military Affairs.

Also (by request of the War Department), a bill (H. R. 2752) to authorize accounting for the appropriation "Pay, etc., of the Army," as one fund, and for the appropriation "Pay of the Military Academy" as one fund; to the Committee on Military Affairs.

Also (by request of the War Department), a bill (H. R. 2753) to provide for appropriate military records for persons who, pursuant to orders, reported for military duty, but whose induction into the military service was, through no fault of their own, not formally completed on or prior to November 30, 1918; to the Committee on Military Affairs.

Also, a bill (H. R. 2754) to authorize appropriations for construction at military posts, and for other purposes; to the Committee on Military Affairs.

By Mr. JOHNSON of South Dakota: A bill (H. R. 2755) to increase the efficiency of the Veterinary Corps of the Regular Army; to the Committee on Military Affairs.

By Mr. REECE: A bill (H. R. 2756) to amend the act entitled "An act for making further and more effectual provision for the national defense, and for other purposes," approved June 3, 1916, as amended, and for other purposes; to the Committee on Military Affairs.

By Mr. BAIRD: A bill (H. R. 2757) for the erection of a public building at the city of Fostoria, State of Ohio, and appropriating money therefor; to the Committee on Public Buildings and Grounds.

By Mr. BOHN: A bill (H. R. 2758) to authorize the Secretary of Commerce to convey to the State of Michigan for park purposes the Cheboygan Lighthouse Reservation, Mich.; to the Committee on Interstate and Foreign Commerce.

By Mr. FITZGERALD (by request): A bill (H. R. 2759) to amend the retirement laws affecting certain grades of Army officers; to the Committee on Military Affairs.

By Mr. JAMES: A bill (H. R. 2760) to prohibit the assignment of certain civilian employees to any bureau of the War Department; to the Committee on Military Affairs.

By Mr. JOHNSON of Oklahoma: A bill (H. R. 2761) authorizing the use of tribal moneys belonging to the Kiowa, Comanche, and Apache Indians, of Oklahoma, for certain purposes; to the Committee on Indian Affairs.

By Mrs. OLDFIELD: A bill (H. R. 2762) to amend section 19 of the World War veterans' act, 1924, as amended; to the Committee on World War Veterans' Legislation.

By Mr. REED of New York: A bill (H. R. 2763) to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress; to the Committee on the Census.

By Mr. BECK: Joint resolution (H. J. Res. 71) providing for the participation of the United States in the preparation and completion of plans for the comprehensive observance of the one hundred and fiftieth anniversary of the formulation of the Constitution of the United States; to the Committee on Rules.

By Mr. SUMNERS of Texas: Concurrent resolution (H. Con. Res. 5) to provide for an inquiry with regard to procedure in impeachment cases; to the Committee on Rules.

By Mr. ELLIOTT: Resolution (H. Res. 43) authorizing the printing as a public document the addresses delivered April 25 and 26, 1929, at the United States Chamber of Commerce building on the development of the city of Washington; to the Committee on Printing.

MEMORIALS

Under clause 3 of Rule XXII, memorials were presented and referred as follows:

Memorial of the Legislature of the Territory of Alaska, urging the passage of H. R. 251, classifying and fixing the salaries of United States commissioners in Alaska; to the Committee on the Judiciary.

Memorial of the State Legislature of the State of Wisconsin, earnestly requesting the Congress of the United States to enact legislation to give Federal aid toward reforestation by States and counties; to the Committee on Agriculture.

By Mr. COYLE: Memorial of the State Legislature of the State of Pennsylvania, urging the Congress of the United States to amend the tariff law in a manner that will bring adequate protection to the coal, textile, and art-glass industries of Pennsylvania from destructive foreign competition; to the Committee on Ways and Means.

By Mr. KELLY: Memorial of the State Legislature of the State of Pennsylvania, urging the Congress of the United States to amend the tariff law in a manner that will bring adequate protection to the coal, textile, and art-glass industries of Pennsylvania from destructive foreign competition; to the Committee on Ways and Means.

By Mr. MAGRADY: Memorial of the Legislature of the State of Pennsylvania, urging the amendment of the tariff law so as to protect the coal, textile, and art-glass industries from destructive foreign competition; to the Committee on Ways and Means.

By Mr. WATRES: Memorial of the State Legislature of the State of Pennsylvania, memorializing the Congress of the United States, and especially the United States Senator and Congressmen from Pennsylvania, to use their best offices in an effort to amend the tariff law in a manner that will bring adequate protection to the coal, textile, and art-glass industries of Pennsylvania from destructive foreign competition; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BACHMANN: A bill (H. R. 2764) granting an increase of pension to Elizabeth Contz; to the Committee on Invalid Pensions.

By Mr. BEERS: A bill (H. R. 2765) granting an increase of pension to Elizabeth Copenhaver; to the Committee on Invalid Pensions.

By Mr. BLACKBURN: A bill (H. R. 2766) granting an increase of pension to Ellen B. Wurtz; to the Committee on Invalid Pensions.

By Mr. BOWMAN: A bill (H. R. 2767) for the relief of James Evans; to the Committee on Military Affairs.

By Mr. BRAND of Ohio: A bill (H. R. 2768) granting an increase of pension to Sullivan W. Buck; to the Committee on Invalid Pensions.

Also, a bill (H. R. 2769) granting an increase of pension to Alice R. Arnold; to the Committee on Invalid Pensions.

Also, a bill (H. R. 2770) granting an increase of pension to Susan Bales; to the Committee on Invalid Pensions.

By Mr. COOKE: A bill (H. R. 2771) granting an increase of pension to Anna M. Buell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 2772) granting an increase of pension to Julia B. Leibrich; to the Committee on Invalid Pensions.

Also, a bill (H. R. 2773) granting a pension to Hattie R. Feldman; to the Committee on Pensions.

Also, a bill (H. R. 2774) to correct the military record of John Dewitt Marvin; to the Committee on Military Affairs.

Also, a bill (H. R. 2775) for the relief of Charlotte Martin, widow of Norman B. Martin; to the Committee on Military Affairs.

Also, a bill (H. R. 2776) for the relief of Dr. Charles F. Dewitz; to the Committee on Claims.

Also, a bill (H. R. 2777) for the relief of Charles E. MacDonald; to the Committee on Claims.

Also, a bill (H. R. 2778) authorizing the President of the United States to present in the name of Congress a congressional medal of honor to Sergt. Frank J. Williams; to the Committee on Military Affairs.

By Mr. CRAWL: A bill (H. R. 2779) granting a pension to Rebecca J. Abel; to the Committee on Invalid Pensions.

Also, a bill (H. R. 2780) granting a pension to Frank M. Van Dyke; to the Committee on Pensions.

Also, a bill (H. R. 2781) granting an increase of pension to Raymond B. Moore; to the Committee on Pensions.

By Mr. GIFFORD: A bill (H. R. 2782) for the relief of Elizabeth B. Dayton; to the Committee on Claims.

By Mr. HALL of Illinois: A bill (H. R. 2783) for the relief of A. J. Schlessler; to the Committee on Military Affairs.

Also, a bill (H. R. 2784) granting a pension to Charles C. Sterling; to the Committee on Pensions.

By Mr. HALL of Indiana: A bill (H. R. 2785) granting a pension to Carrie Harris; to the Committee on Invalid Pensions.

By Mr. HAWLEY: A bill (H. R. 2786) for the relief of Alex Silvola; to the Committee on Claims.

By Mr. HOPKINS: A bill (H. R. 2787) granting a pension to Susan Cook; to the Committee on Invalid Pensions.

Also, a bill (H. R. 2788) granting an increase of pension to Josephine Moore; to the Committee on Invalid Pensions.

By Mr. JENKINS: A bill (H. R. 2789) granting an increase of pension to Nancy Ann Rouse; to the Committee on Invalid Pensions.

Also, a bill (H. R. 2790) granting an increase of pension to Minia Pierpoint; to the Committee on Invalid Pensions.

Also, a bill (H. R. 2791) granting an increase of pension to Sarah A. Fox; to the Committee on Invalid Pensions.

Also, a bill (H. R. 2792) granting a pension to Joseph M. Lenegar; to the Committee on Pensions.

By Mr. LINTHICUM: A bill (H. R. 2793) granting six months' pay to Lucy B. Knox; to the Committee on Naval Affairs.

Also, a bill (H. R. 2794) for the relief of the Monumental Stevedore Co.; to the Committee on Claims.

Also, a bill (H. R. 2795) for the relief of the heirs of Burgess Hammond; to the Committee on War Claims.

Also, a bill (H. R. 2796) for the relief of Capt. Walter S. Bramble; to the Committee on Military Affairs.

By Mr. LUCE: A bill (H. R. 2797) granting a pension to Alice Grace Welch; to the Committee on Invalid Pensions.

By Mr. MAGRADY: A bill (H. R. 2798) granting an increase of pension to Mary P. L. Schrader; to the Committee on Invalid Pensions.

By Mr. McFADDEN: A bill (H. R. 2799) for the relief of Francis B. McCloskey; to the Committee on Military Affairs.

Also, a bill (H. R. 2800) to correct the military record of Lemuel Horton; to the Committee on Military Affairs.

Also, a bill (H. R. 2801) for the relief of John Strevey, deceased; to the Committee on Military Affairs.

Also, a bill (H. R. 2802) granting a pension to Fred C. Vanderpool; to the Committee on Pensions.

By Mr. MILLIGAN: A bill (H. R. 2803) granting a pension to Malissa A. Pitts; to the Committee on Invalid Pensions.

By Mr. NELSON of Missouri: A bill (H. R. 2804) granting a pension to Sarah Ann Jones; to the Committee on Invalid Pensions.

By Mr. NEWTON: A bill (H. R. 2805) for the relief of Edwin Lockwood MacLean; to the Committee on Military Affairs.

Also, a bill (H. R. 2806) for the relief of Raymond L. Higgins; to the Committee on Naval Affairs.

Also, a bill (H. R. 2807) for the relief of Howard A. Jussell; to the Committee on War Claims.

Also, a bill (H. R. 2808) for the relief of Robert J. Smith; to the Committee on Military Affairs.

Also, a bill (H. R. 2809) for the relief of Adelaide (Ada) J. Walker Robbins; to the Committee on Military Affairs.

Also, a bill (H. R. 2810) for the relief of Katherine Anderson; to the Committee on Claims.

Also, a bill (H. R. 2811) granting a pension to Katharine May Smith; to the Committee on Pensions.

Mr. Mr. O'CONNOR of New York: A bill (H. R. 2812) granting a pension to Hugh Peter McKeon; to the Committee on Pensions.

By Mr. PALMER: A bill (H. R. 2813) granting a pension to Diana Patterson; to the Committee on Invalid Pensions.

By Mr. SNELL: A bill (H. R. 2814) for the relief of Melissa Switzer; to the Committee on Military Affairs.

By Mr. STALKER: A bill (H. R. 2815) granting an increase of pension to Julia McChesney; to the Committee on Invalid Pensions.

Also, a bill (H. R. 2816) granting an increase of pension to Mary Granger; to the Committee on Invalid Pensions.

Also, a bill (H. R. 2817) granting an increase of pension to Harriet Campbell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 2818) granting an increase of pension to Adelia Van Wormer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 2819) granting a pension to Cora M. Bogardus; to the Committee on Pensions.

By Mr. STOBBS: A bill (H. R. 2820) granting an increase of pension to Cecelia Stearns; to the Committee on Invalid Pensions.

By Mr. VESTAL: A bill (H. R. 2821) granting an increase of pension to Virginia L. Jones; to the Committee on Invalid Pensions.

By Mr. WILLIAMSON: A bill (H. R. 2822) for the relief of J. E. Reddick; to the Committee on Claims.

By Mr. WINGO: A bill (H. R. 2823) granting a pension to Mary E. Rebsamen; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

341. Petition of the Manila Camp, No. 50, United Spanish War Veterans, of Ohio, that when there shall be a vacancy in the membership of the Civil Service Commission of the United States the President is respectfully requested to appoint thereto a competent veteran of the war with Spain; to the Committee on the Civil Service.

342. Petition of the United Spanish War Veterans, Department of Ohio, urging the Civil Service Commission to amend and enforce its rules that eligibility for employment of veterans of the military and naval forces of the United States in time of war shall be and remain open to all such veterans for any and all employment in the civil service of the Government as they shall be individually capable physically and mentally to perform; to the Committee on the Civil Service.

343. Petition of the Pacific Coast Travelers Association, of San Francisco, Calif., memorializing Congress of the United States for a reduction of 50 per cent in the Federal tax on earned incomes; to the Committee on Ways and Means.

344. By Mr. BLOOM: Petition of the Capt. Belvidere Brooks Post, No. 450, American Legion, New York County, N. Y., indorsing the McNamee report in favor of the service officers pay bill; to the Committee on Military Affairs.

345. By Mr. CONNERY: Petition of the Syrian-American Citizens Society, Lawrence, Mass., protesting against insult to Americans of Syrian origin; to the Committee on Immigration and Naturalization.

346. By Mr. GARBER of Oklahoma: Petition of the National Civil Service Reform League, protesting against the census bill (H. R. 5); to the Committee on the Census.

347. By Mr. JOHNSON of Texas: Petition of Southwestern Division of American Association for the Advancement of Science, favoring importation of scientific instruments free of tariff duty; to the Committee on Ways and Means.

348. By Mr. O'CONNELL of New York: Petition of the National Civil Service Reform League, New York City, opposing the passage of House bill 5, census bill, in its present form; to the Committee on the Census.

349. Also, petition of the Northeastern Retail Lumbermen's Association, of Rochester, N. Y., opposing the proposed duty on lumber and shingles; to the Committee on Ways and Means.

350. By Mr. SPEAKS: Evidence in support of House bill 2715, granting a pension to Flora Newman; to the Committee on Invalid Pensions.

351. Also, evidence in support of House bill 2716, granting a pension to Nancy White; to the Committee on Invalid Pensions.

352. Also, evidence in support of House bill 2717, granting a pension to Mary Anderson; to the Committee on Invalid Pensions.

353. Also, evidence in support of House bill 2720, granting an increase of pension to Hattie Black; to the Committee on Pensions.

354. Also, evidence in support of House bill 2721, granting an increase of pension to Mary Ellen Dalgarn; to the Committee on Invalid Pensions.

355. Also, evidence in support of House bill 2722, granting an increase of pension to Elizabeth R. McConnell; to the Committee on Invalid Pensions.

356. Also, evidence in support of House bill 2723, granting an increase of pension to Mary Slosser; to the Committee on Invalid Pensions.

357. Also, evidence in support of House bill 2724, granting an increase of pension to Alice E. Chapman; to the Committee on Invalid Pensions.

358. Also, evidence in support of House bill 2725, granting an increase of pension to Ellen M. Carey; to the Committee on Invalid Pensions.

359. Also, evidence in support of House bill 2726, granting an increase of pension to Eliza J. Wilson; to the Committee on Invalid Pensions.

360. Also, evidence in support of House bill 2727, granting an increase of pension to Josephine A. Carlton; to the Committee on Invalid Pensions.

SENATE

FRIDAY, May 10, 1920

(Legislative day of Tuesday, May 7, 1920)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

Mr. GOFF obtained the floor.

Mr. JOHNSON. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Allen	Fletcher	McMaster	Smoot
Ashurst	Frazier	McNary	Steck
Barkley	George	Metcalf	Steiwer
Bingham	Gillett	Moses	Stephens
Black	Glenn	Norbeck	Swanson
Blaine	Goff	Norris	Thomas, Idaho
Blease	Gould	Nye	Thomas, Okla.
Borah	Greene	Oddie	Trammell
Brookhart	Hale	Overman	Tydings
Broussard	Harris	Patterson	Tyson
Burton	Harrison	Phipps	Vandenbergh
Capper	Hatfield	Pine	Wagner
Caraway	Hawes	Fittman	Walcott
Connally	Hayden	Ransdell	Walsh, Mass.
Copeland	Hebert	Reed	Walsh, Mont.
Couzens	Hedlin	Robinson, Ark.	Warren
Cutting	Howell	Robinson, Ind.	Waterman
Dale	Johnson	Sackett	Watson
Deneen	Kean	Schall	Wheeler
Dill	Keyes	Sheppard	
Edge	King	Shortridge	
Fess	La Follette	Simmons	

Mr. DILL. I wish to announce that my colleague [Mr. JONES] is detained from the Senate owing to illness.

The PRESIDENT pro tempore. Eighty-five Senators having answered to their names, there is a quorum present. The Senator from West Virginia is entitled to the floor.

MOTHER'S DAY

Mr. GOFF. Mr. President, Mother's Day originated with Miss Anna Jarvis, of Grafton, W. Va., now of Philadelphia. Her mother was an unusual and outstanding character in the community life of that well-known city, and at her death all who knew her, in a spirit of love and reverence, requested that a memorial be arranged in which they all might participate. In planning this tribute Miss Jarvis conceived the idea of a national memorial to the American mother. She recognized the prevailing widespread influence of the material spirit of the day. She saw the effect of the neglect of home ties engendered by the whirl and pressure of modern life. She, as we all do, felt the lack of deference and respect to their parents among the children of this generation, and so she was laudably and gratefully impelled by her own great grief to remind everyone of the debt we owe our mothers.

In May, 1914, Congress designated the second Sunday in that month as Mother's Day, and duly authorized the President to issue a proclamation calling upon all Government officials and inviting the people of the Nation to display the American flag on all Government buildings and in their homes on that day.

Centuries ago a discerning philosopher discovered that "The pearl is the image of purity, but woman is purer than the pearl." Homer, 500 years later, immortalized the Grecian mother in the proud description: "She moves a goddess, and she looks a queen." In all human thought there is not a nobler,

higher, finer ideal than the word "mother." In every age it has gardened the earth with the blossoms of love—the flowers of heaven. Motherhood is the salvation or the destruction of the race, carrying as it does the destinies of mankind in the folds of its mantle.

A great thinker in thoughts divine from his scholastic soul tells us thus:

When Eve was brought unto Adam, he became filled with the Holy Spirit, and gave her the most sanctified, the most glorious of appellations. He called her Eva, that is to say, the Mother of All. He did not style her wife, but simply mother, mother of all living creatures. In this consists the glory and the most precious ornament of woman.

How beautiful, and how inspiringly true! Never can we forget our noble, sainted mothers. On the blue mountains of our dim childhood, toward which we ever turn and gaze, stand today the angelic mothers who marked out to us from whence our course should be and how our lives should be lived. And Shakespeare sees her:

So pure and sweet, her fair brow seemed eternal as the sky,

And like the brook's low song, her voice,

A sound that could not die.

She made life a heaven here because she believed in and taught the gospel of cheerfulness, love, happiness, and hope. She lived and she suffered for truth, sympathy, intellectual, and moral liberty. She gave her best, the sunshine of an earnest, honest, gifted soul, for the good of others. She lived and she lives for home, family, and country, with a devotion that transcends words. She loved the poor, the helpless, the victims of toil and want. She pitied, and she abhorred deceit. She hated falsehood in any form, and she gave always, without expecting return, what she claimed or exacted from others. She lived her principles and looked always with forgiving, tender eyes upon our failings. She beguiled our grief with soothing care, and mended our broken hopes with caressing and tender promises of sweet reward. Always she was positive without severity, and firm without arrogance. She taught us courage, intelligence, integrity, and the mighty hopes that make us men. She taught our helpless lips to lisp the blessings that came to them from her heart, her body, and her soul. She reared us to know and feel that life is to live and love, those who love us here—

Thou art thy mother's glass and she in thee

Calls back the lovely April of her prime.

And may the gratitude of our lives ever mirror her image and reflect her divinity.

She led me first to God;

Her words and prayers were my young spirit's dew

For when she used to leave

The fireside every eve,

I knew it was for prayer that she withdrew.

She enriched mankind with grace supreme. She was an angel of charity and always busy beyond her strength and her means. Yes; how cheerful she was as she moved among us, and knowing that her influence was a power in trust she builded ever for posterity. She loved the good and all the worth while loved her. She taught us to think, and to know that the home was merely a miniature of the larger world outside. She made the hearthstone sacred, and, forgetting self, she sought favors only for those she served. She was free. No evil could bribe her mind or intimidate her soul, and she knew no fear except the fear of doing wrong. Ever in honoring our mothers we pay a tribute to ourselves and testify to our ideals. Thus we come to realize that only the voiceless speak forever, and that from her fair and unpolluted flesh violets spring and blossom, perfuming the world with peace and love and joy.

A mother's love, how sweet the name,

What is a mother's love?

A noble, pure, and tender flame

Enkindled from above

To bless a heart of earthly mold,

The warmest love that can grow cold

This is a mother's love.

If we would know our mother, her life, her heart, her motives, the depth and the tenderness of her sympathy, the nobleness of her nature, the beauty of her spirit, and the splendid integrity of her stainless soul, we must go stand by her grave and let the memories of childhood surge and resurge through the mind. She will come back from the palace of eternity in all the dignity and the grace of her blessed perfection. She will come back like faint, exquisite music, so kind, so beautiful, so gentle, so holy, with that smile which will ever be to us our first glimpse of God and love as she scattered the